

1 BILL NO. G-26-10-19

2 GENERAL ORDINANCE NO. G-_____

3 AN ORDINANCE CREATING CHAPTER 54 OF
4 THE CITY OF FORT WAYNE CODE OF ORDINANCES

5 WHEREAS, the Common Council of the City of Fort Wayne, Indiana ("Council")
6 established the Fort Wayne Stormwater Utility ("Utility") in 1991; and

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

11 WHEREAS, the DSM has worked with the City's Department of Planning Services to
12 transition floodplain administration duties from the Department of Planning Services to the
13 DSM; and

14 WHEREAS, the City is a participating community in the National Flood Insurance
15 Program (NFIP) and is required to adopt and enforce floodplain management regulations that
16 meet or exceed the minimum requirements established by the Federal Emergency Management
17 Agency (FEMA); and;

18 WHEREAS, the Indiana Department of Natural Resources (DNR), Division of Water,
19 has provided the City with a tailored model Flood Damage Prevention Ordinance that
20 incorporates current NFIP minimum standards and best practices for floodplain management; and

21 WHEREAS, the Flood Damage Prevention Ordinance is intended to promote the safe
22 and responsible use of flood-prone areas within the City, prevent increases in flood levels, and
23 minimize public and private losses resulting from flooding; and

24 WHEREAS, adoption of updated flood damage prevention regulations is necessary to
25 maintain the City's good standing in the NFIP and to ensure that City residents and property
26 owners remain eligible for federally subsidized flood insurance; and

27 WHEREAS, the Department of Planning Services is concurrently repealing the City's
28 existing Floodplain Ordinance included in Chapter 157 of the Code; and
29
30

WHEREAS, the DSM will continue to work with the Department of Planning Services after the concurrent effective dates of the ordinance repealing Chapter 157 and the ordinance adding Chapter 54 to ensure a consistent and orderly transition of floodplain administration duties; and

WHEREAS, the Board of Stormwater Management has reviewed the DNR's tailored model ordinance and finds that its adoption, with appropriate modifications made thereto, to conform to the Code structure and numbering system and is in the best interests of the City and its residents.

WHEREAS, the Council now therefore finds it necessary to create and adopt Chapter 54 of the Code as provided below.

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

SECTION 1. That Chapter 54 of the Fort Wayne Code of Ordinances is hereby incorporated into the Fort Wayne Code of Ordinances as follows:

CHAPTER 54: FLOOD DAMAGE PREVENTION

Section

General Provisions

- 54.001 Statutory Authorization
- 54.002 Findings of Fact
- 54.003 Purpose
- 54.004 Methods of Reducing Flood Loss
- 54.005 Definitions
- 54.006 Lands to Which This Chapter Applies
- 54.007 Basis for Establishing the Areas of Special Flood Hazard
- 54.008 Establishment of Floodplain Development Permit
- 54.009 Compliance
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GENERAL PROVISIONS

§ 54.001 STATUTORY AUTHORIZATION

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to adopt, codify, and enforce ordinances within their jurisdictions. Therefore, the Common Council of The City of Fort Wayne does hereby adopt the following floodplain management regulations.

§ 54.002 FINDINGS OF FACT

The flood hazard areas of the City of Fort Wayne are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. To minimize the threat of such damage and to achieve the purposes hereinafter set forth, this chapter is adopted.

§ 54.003 PURPOSE

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1 Protect human life and health.

2 Minimize expenditure of public money for costly flood control projects.

3 Minimize the need for rescue and relief efforts associated with flooding and generally
4 undertaken at the expense of the general public.

5 Minimize prolonged business interruptions.

6 Minimize damage to public facilities and utilities such as water and gas mains, electric,
7 telephone, and sewer lines, streets, and bridges located in floodplains.

8 Help maintain a stable tax base by providing for the sound use and development of flood
9 prone areas in such a manner as to minimize flood blight areas.

10 Ensure that those who occupy the areas of special flood hazard assume responsibility for
11 their actions.

12 Minimize the impact of development on adjacent properties within and near flood prone
13 areas.

14 Ensure that the flood storage and conveyance functions of the floodplain are maintained.

15 Minimize the impact of development on the natural, beneficial values of the floodplain.

16 Prevent floodplain uses that are either hazardous or environmentally incompatible.

17 Meet community participation requirements of the National Flood Insurance Program.

18 ***§ 54.004 METHODS OF REDUCING FLOOD LOSS***

19 To accomplish its purposes, this chapter includes methods and provisions for:

20 (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due
21 to water hazards, or which result in damaging increases in flood heights or velocities.

22 (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be
23 protected against flood damage at the time of initial construction.

24 (3) Controlling the alteration of natural floodplains, stream channels, and protective
25 barriers, which help accommodate or channel flood waters.

26 (4) Controlling filling, grading, dredging, excavating, and other development which may
27 increase flood damage.

28 (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert
29 floodwater, or which may increase flood hazards in other areas.

30 ***§ 54.005 DEFINITIONS***

Unless specifically defined below, words or phrases used in this chapter shall be interpreted by the meaning they have in common usage and to give this chapter the most reasonable application.

ACCESSORY STRUCTURE. A structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and has a use which is incidental to the use of the principal structure. An accessory structure specifically excludes structures used for human habitation.

- (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- (2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
- (3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
 - a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence.
 - b. Structures used by the public, such as a place of employment or entertainment.
 - c. Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

ADDITION (to an existing structure). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

AERATOR. A mechanical device placed within a public freshwater lake that is used to accomplish any of the following:

- (1) Increase the amount of dissolved oxygen in the water.
- (2) Increase the decomposition of organic materials.
- (3) Alter water flow or circulation.
- (4) Reduce icing.
- (5) Enhance audio or visual enjoyment by bubbling or spraying water.

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter, a request for a variance, or a challenge of a board decision.

AREA OF SPECIAL FLOOD HAZARD. The land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

BASE FLOOD. The flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

BASE FLOOD ELEVATION (BFE). The water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

1 **BASEMENT.** The portion of a structure having its floor sub-grade (below ground level) on all
2 sides.

3 **BEST AVAILABLE FLOOD LAYER (BAFL).** Floodplain studies and any corresponding floodplain
4 maps prepared and/or approved by the Indiana Department of Natural Resources which provide
5 base flood elevation information, floodplain limits, and/or floodway delineations for flood
6 hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for
7 waterways where the flood hazard is not identified on available floodplain mapping.

8 **BOARD.** The Board of Stormwater Management of the City of Fort Wayne, established under
9 IC 8-1.5-5 and § 53.01.

10 **BUILDING.** See "Structure."

11 **COMMUNITY.** A political entity that has the authority to adopt and enforce floodplain chapter
12 for the areas within its jurisdiction.

13 **DESIGN STANDARDS MANUAL.** The City Utilities Design Standards Manual, as amended from
14 time to time, copies of which are on file in the Office of the City Clerk.

15 **DEVELOPMENT.** For floodplain management purposes, any man-made change to improved or
16 unimproved real estate including but not limited to:

- 17 construction, reconstruction, or placement of a structure or any addition to a structure;
- 18 installing a manufactured home on a site, preparing a site for a manufactured home, or
- 19 installing a recreational vehicle on a site for 180 consecutive days or more;
- 20 installing utilities, erection of walls and fences, construction of roads, or similar projects;
- 21 construction of flood control structures such as levees, dikes, dams, channel improvements,
- 22 etc.;
- 23 mining, dredging, filling, grading, excavation, or drilling operations;
- 24 construction and/or reconstruction of boat lifts, docks, piers, and seawalls;
- 25 construction and/or reconstruction of bridges or culverts;
- 26 storage of materials; or
- 27 any other activity that might change the direction, height, or velocity of flood or surface
- 28 waters.

29 **DRY HYDRANT.** A structure that does both of the following:

- 30 (1) Extends lakeward of the legally established or average normal waterline or shoreline.
- (2) Provides a means of suction water supply without direct drafting for fire protection.

EFFECTIVE DATE. 12:00 a.m. on January 1, 2027.

ELEVATION CERTIFICATE. A FEMA form that is routinely reviewed and approved by the White
House Office of Management and Budget under the Paperwork Reduction Act, that is
encouraged to be used to collect certified elevation information.

ENCLOSED AREA (ENCLOSURE). An area of a structure enclosed by walls on all sides.

ENCLOSURE BELOW THE LOWEST FLOOR. See "Lowest Floor" and "Enclosed Area."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 24, 1974.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

FILL. For floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes, but is not limited to, consolidated material, such as concrete and brick, and unconsolidated material, such as soil, sand, gravel, and stone.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.

FLOOD HAZARD AREA. Areas subject to the one percent (1%) annual chance flood. (See "Special Flood Hazard Area")

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Floodplain")

FLOOD PROTECTION GRADE (FPG). The BFE plus two (2) feet at any given location in the SFHA.

FLOOD-RELATED EROSION. The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which

results in flooding.

FLOODPLAIN or FLOOD PRONE AREA. Any land area susceptible to being inundated by water from any source. (See "Flood")

FLOODPLAIN ADMINISTRATOR. The official designated in § 54.025, or that official's designee.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance or erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING (DRY FLOODPROOFING). A method of protecting a structure that ensures the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls can resist hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. In no case shall the designated height be more than 0.14 foot at any point within the community.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE or FLOOD FRINGE. The portion of the floodplain lying outside the floodway.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

GLACIAL STONE. A rounded stone that satisfies each of the following:

- (1) Was produced by glacial activity.
- (2) No individual stone weighs more than one hundred twenty (120) pounds.
- (3) At least ninety percent (90%) of the material passes through a twelve (12) inch sieve.
- (4) Not more than ten percent (10%) of the material passes through a six (6) inch sieve.

HARDSHIP (as related to variances of this chapter). The exceptional hardship that would result

1 from a failure to grant the requested variance. The hardship must be exceptional, unusual, and
2 peculiar to the property involved. Mere economic or financial hardship alone is NOT
3 exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences,
4 or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional
5 hardship. All these problems can be resolved through other means without granting a variance,
6 even if the alternative is more expensive or requires the property owner to build elsewhere or
7 put the parcel to a different use than originally intended.

8 **HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface, prior to the
9 start of construction, next to the proposed walls of a structure.

10 **HISTORIC STRUCTURE.** Any structure that is:

- 11 listed individually in the National Register of Historic Places (a listing maintained by the
12 Department of Interior) or preliminarily determined by the Secretary of the Interior as
13 meeting the requirements for individual listing on the National Register or the Indiana
14 DNR-Division of Historic Preservation and Archaeology, or the by the National Park
15 Service
- 16 certified or preliminarily determined by the Secretary of the Interior or the Indiana DNR-
17 Division of Historic Preservation and Archaeology, or by the National Park Service as
18 contributing to the historical significance of a registered historic district or a district
19 preliminarily determined by the Secretary to qualify as a registered historic district;
- 20 individually listed with a rating of "Outstanding" in the State Historic Architectural and
21 Archaeological Research Database (SHAARD) Historic Resources inventory, the Indiana
22 SHAARD GIS map site, or any successors to these data platforms or on a state inventory
23 of historic places in states with historic preservation programs which have been
24 approved by the Secretary of the Interior; or
- 25 individually listed as a Fort Wayne local historic district or a contributing building or historic
26 resource within a Fort Wayne multi-property historic district; or
- 27 a "Notable" or "Outstanding" individual property, or a contributing resource in a listed or
28 eligible historic district included in the Fort Wayne Cultural Resources Inventory; or
- 29 individually listed, with a rating of "Notable" in the Indiana SHAARD Historic Resources
30 Inventory, the Indiana SHAARD GIS map site, or if a building does not fall into any of
these categories but is questionable in its absence, consult with the City of Fort Wayne
Historic Preservation Staff or on a local inventory of historic places in communities
with historic preservation programs that have been certified by (a) an approved state
program as determined by the Secretary of Interior, or (b) directly by the Secretary of
Interior in states without approved programs.

HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS. Analyses performed by a
professional engineer licensed by the State of Indiana, in accordance with standard engineering
practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to
determine the base flood, other frequency floods, flood elevations, floodway information and
boundaries, and flood profiles.

INTERNATIONAL CODE COUNCIL-EVALUATION SERVICE (ICC-ES) REPORT. A document that
presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES
reports provide information about what code requirements or acceptance criteria were used to

1 evaluate a product, and how the product should be identified and installed.

2 **LETTER OF FINAL DETERMINATION (LFD)**A letter issued by FEMA during the mapping update
3 process which establishes final elevations and provides the new flood map and flood study to
4 the community. The LFD initiates a six-month adoption period. The community must adopt or
5 amend its floodplain management regulations during this six-month period unless the
6 community has previously incorporated an automatic adoption clause.

7 **LETTER OF MAP CHANGE (LOMC).**A general term used to refer to the several types of revisions
8 and amendments issued by FEMA to FEMA maps that can be accomplished by letter. They are
9 broken down into the following categories:

- 10 (1) **CONDITIONAL LETTER OF MAP REVISION (CLOMR).**A formal review and comment by
11 FEMA as to whether a proposed project, if built as proposed, or proposed hydrology
12 changes would meet minimum National Flood Insurance Program floodplain
13 management standards. A CLOMR does not amend or revise effective Flood Insurance
14 Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- 15 (2) **CONDITIONAL LETTER OF MAP REVISION BASED ON FILL (CLOMR-F).**A letter from
16 FEMA stating that a parcel of land or proposed structure that will be elevated by fill
17 would not be inundated by the base flood if fill is placed on the parcel as proposed or
18 the structure is built as proposed.
- 19 (3) **LETTER OF MAP AMENDMENT (LOMA).**An amendment by letter to the currently
20 effective FEMA map that establishes that a building or area of land is not located in a
21 SFHA through the submittal of property specific elevation data.
- 22 (4) **LETTER OF MAP AMENDMENT OUT AS SHOWN (LOMA-OAS).**An official determination
23 by FEMA that states the property or building is correctly shown outside the SFHA as
24 shown on an effective NFIP map. Therefore, the mandatory flood insurance
25 requirement does not apply. An out-as-shown determination does not require
26 elevations.
- 27 (5) **LETTER OF MAP REVISION (LOMR).**An official revision to the currently effective FEMA
28 map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- 29 (6) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).**FEMA's modification of the SFHA
30 shown on the FIRM based on the placement of fill outside the existing regulatory
floodway.

31 **LOWEST ADJACENT GRADE.** The lowest elevation, after completion of construction, of the
32 ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

33 **LOWEST FLOOR.** For floodplain management purposes, the lowest elevation described among
34 the following:

35 The lowest floor of a building.

36 The basement floor.

37 The garage floor if the garage is connected to the building.

38 The first floor of a structure elevated on pilings or pillars.

39 The floor level of any enclosure, other than a basement, below an elevated structure where
40

the walls of the enclosure provide any resistance to the flow of floodwater, unless the requirements listed in a) and b) below are met. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following requirements:

The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwater.

At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.

The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal or assessed values

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

NATURAL GRADE. For floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

NEW CONSTRUCTION. For floodplain management purposes means any structure for which the "start of construction" commenced on or after the effective date of the floodplain management regulations first adopted by the City (May 1974) and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after May 24, 1974.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). As adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike,

1 pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire,
2 fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or
3 projecting into any watercourse which may alter, impede, retard or change the direction and/or
4 velocity of the flow of water; or due to its location, its propensity to snare or collect debris
5 carried by the flow of water, or its likelihood of being carried downstream.

6 **ONE-PERCENT ANNUAL CHANCE FLOOD.** Is the flood that has a one percent (1%) chance of
7 being equaled or exceeded in any given year. See "Regulatory Flood."

8 **PHYSICAL MAP REVISION (PMR).** Is an official republication of a community's FEMA map to
9 effect changes to base (one-percent annual chance) flood elevations, floodplain boundary
10 delineations, regulatory floodways, and planimetric features. These changes typically occur as a
11 result of structural works or improvements, annexations resulting in additional flood hazard
12 areas, or corrections to base flood elevations or SFHAs.

13 **PREFABRICATED BUILDING.** Is a building that is manufactured and constructed using
14 prefabrication. It consists of factory-made components or units that are transported and
15 assembled on-site to form the complete building.

16 **PRESERVED NOTICE.** A notice of violation, citation, or other enforcement action issued under §
17 157.412 before, and unresolved on, the Effective Date, as more fully described in Ordinance No.
18 ____.

19 **PRINCIPALLY ABOVE GROUND.** That at least 51 percent of the actual cash value of the
20 structure, less land value, is above ground.

21 **PUBLIC FRESHWATER LAKE.** A naturally formed lake (not man-made) that has been used by
22 the public with the acquiescence of a riparian owner. A listing of Indiana public freshwater lakes
23 is maintained in Natural Resources Commission Information Bulletin #61.

24 **RECREATIONAL VEHICLE.** A vehicle which is:

- 25 (1) built on a single chassis;
- 26 (2) 400 square feet or less when measured at the largest horizontal projections;
- 27 (3) designed to be self-propelled or permanently towable by a light duty truck; and
- 28 (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters
29 for recreational camping, travel, or seasonal use.

30 **REGULATORY FLOOD.** The flood having a one percent (1%) chance of being equaled or
exceeded in any given year, as calculated by a method and procedure that is acceptable to and
approved by the Indiana Department of Natural Resources and the Federal Emergency
Management Agency. The regulatory flood elevation at any location is as defined in § 54.007.
The "Regulatory Flood" is also known by the term "Base Flood," "One-Percent Annual Chance
Flood," and "100-Year Flood."

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook,
etc.

SPECIAL FLOOD HAZARD AREA (SFHA). Synonymous with "areas of special flood hazard" and
floodplain, means those lands within the jurisdiction of the City subject to a one percent or

greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps and Flood Insurance Studies as Zones A, AE, AH, AO, A1-30, A99, or VE. The SFHA also includes areas that are flood prone and designated from other federal, state or local sources of data including, but not limited to, best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

STANDARD FLOOD INSURANCE POLICY. A flood insurance policy issued under the National Flood Insurance Program.

START OF CONSTRUCTION. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STEM WALL FOUNDATION, BACKFILLED. A solid perimeter foundation that is backfilled with compacted structural fill, concrete, or gravel that supports a floor slab (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill).

STRUCTURE. A walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for 180 consecutive days or more.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

TEMPORARY STRUCTURE (PUBLIC FRESHWATER LAKES ONLY). A structure that can be installed and removed from the waters of a public freshwater lake without using a crane, bulldozer, backhoe, or similar heavy or large machinery. Examples of a temporary structure include the following:

1 A pier that is supported by auger poles or other poles that do not exceed three and one-half
2 (3½) inches in diameter, rest on the lakebed, and is not mounted in or comprised of
3 concrete or cement.

4 A boat shelter, boat lift, or boat hoist that has a canvas top and sides, is supported by auger
5 poles or other poles that do not exceed three and one-half (3½) inches in diameter, is
6 not mounted in or comprised of concrete or cement, is designed to float or to rest
7 upon the bed of the lake under its own weight if any structure to which it is attached
8 complies with this section, and is not wider than ten (10) feet nor longer than twenty
9 (20) feet.

10 **VARIANCE.** Is a grant of relief from the requirements of this chapter consistent with the
11 variance conditions herein.

12 **VIOLATION.** The failure of a structure or other development to be fully compliant with this
13 chapter.

14 **WALLED AND ROOFED.** A building that has two or more exterior rigid walls and a fully secured
15 roof and is affixed to a permanent site.

16 **WATERCOURSE.** A lake, river, creek, stream, wash, channel, or other topographic feature on or
17 over which waters flow at least periodically. Watercourse includes specifically designated areas
18 in which substantial flood damage may occur.

19 ***§ 54.006 LANDS TO WHICH THIS CHAPTER APPLIES***

20 This chapter shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of
21 the City of Fort Wayne, Indiana as identified in § 54.007 including any additional areas of special
22 flood hazard annexed by the City of Fort Wayne, Indiana.

23 ***§ 54.007 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD***

- 24 (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs
25 (riverine) within the jurisdiction of the City of Fort Wayne, delineated as an "AE Zone"
26 on the Allen County, Indiana and Incorporated Areas Flood Insurance Rate Map panels
27 effective as of January 11, 2024 shall be determined from the one-percent annual
28 chance flood profiles in the FIS of Allen County, Indiana and Incorporated Areas and the
29 corresponding FIRM panels effective as of January 11, 2024 as well as any subsequent
30 updates, amendments, or revisions, prepared by the Federal Emergency Management
Agency (FEMA) with the most recent date. Should the floodway limits not be
delineated on the FIRM for a studied SFHA designated as an "AE Zone," the limits of the
floodway will be according to the best available flood layer as provided by the Indiana
Department of Natural Resources.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within
the jurisdiction of the City of Fort Wayne, delineated as an "A Zone" on the Allen
County, Indiana and Incorporated Areas FIRM panels effective as of January 11, 2024,
as well as any subsequent updates, amendments, or revisions, prepared by the Federal
Emergency Management Agency with the most recent date, shall be according to the
best available flood layer provided by the Indiana Department of Natural Resources,
provided the upstream drainage area from the subject site is greater than one square
mile. Whenever a party disagrees with the best available flood layer, the party needs
to replace existing data with better data that meets current engineering standards. To

be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

- (3) The regulatory flood elevation for each SFHA of a public freshwater lake within the jurisdiction of the City of Fort Wayne delineated as "Zone AE" on the Allen County, Indiana and Incorporated Areas FIRM panels effective as of January 11, 2024, shall be in the stillwater elevation tables in the FIS of Allen County, Indiana and Incorporated Areas, dated January 11, 2024, and any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. A listing of Indiana public freshwater lakes can be found in Natural Resources Commission Information Bulletin #61.
- (4) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer, as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- (5) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

§ 54.008 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

§ 54.009 COMPLIANCE

- (1) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations.
- (2) Where an existing or proposed structure or other development is affected by multiple flood zones, multiple base flood elevations, or both, the development activity must comply with the provisions of this chapter applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

§ 54.010 ABROGATION AND GREATER RESTRICTIONS

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 54.011 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS

In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of stillwater

elevations shall govern.

If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied, provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

§ 54.012 INTERPRETATION

In the interpretation and application of this chapter, all provisions shall be:

Considered as minimum requirements;

Liberal construed in favor of the governing body; and

Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 54.013 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the City of Fort Wayne or its officers, employees, or boards, the Indiana Department of Natural Resources, or the State of Indiana for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

§ 54.014 PENALTIES FOR VIOLATION

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and abated in accordance with IC 36-1-6 and other applicable law. All violations shall be punishable by a fine not exceeding \$2,500.00 for a first violation and not exceeding \$7,500.00 for a second or subsequent violation, as permitted by IC 36-1-3-8(a)(10).

A separate offense shall be deemed to occur for each day the violation continues to exist.

The Board of Stormwater Management shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

Nothing herein shall prevent the City of Fort Wayne from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

ADMINISTRATION

§ 54.025 DESIGNATION OF ADMINISTRATOR

The Common Council of the City of Fort Wayne hereby appoints the Sewer and Stormwater Engineering Manager – Utilities Engineer and/or their designee to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

§ 54.026 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with a special flood hazard area. Such application shall be made by the owner of the property or

the owner's authorized agent, herein referred to as the applicant, prior to work commencing, on a form furnished for that purpose. Such applications shall include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

Application Stage

A description of the proposed development.

Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

A legal description of the property site.

For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed, including but not limited to, interior work, exterior work, and labor, as well as a certified valuation of the existing (pre-improved or pre-damaged) structure.

A site development plan showing existing and proposed development locations and existing and proposed land grades.

A note on the plans, certified by a licensed professional surveyor or engineer, stating that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.

Verification that a connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.

Plans showing the elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A or AE. Elevations shall be in NAVD 88.

Plans showing the elevation (in NAVD 88) to which any non-residential structure will be floodproofed.

Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.

Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.

Plans showing how any proposed structure will be anchored to resist flotation or collapse.

Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed and/or located. Elevations shall be in NAVD 88.

Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis

1 is required (and must be completed by a Professional Engineer), and any
2 watercourse changes must be submitted to the Indiana Department of Natural
3 Resources for approval. Once the Indiana Department of Natural Resources
4 approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained
prior to construction. (See § 54.027(8) and § 54.029 for additional information.)

5 Any additional information, as requested by the Floodplain Administrator, which may
6 be necessary to determine the disposition of a proposed development or
structure with respect to the requirements of this chapter.

Construction Stage

7 Upon establishment of the lowest floor of an elevated structure or structure
8 constructed on fill, it shall be the duty of the applicant to submit to the Floodplain
9 Administrator an elevation certificate for the building under construction. The
10 Floodplain Administrator shall review the elevation certificate. Any deficiencies
11 detected during the review shall be corrected by the applicant before work is
12 allowed to continue. Failure to submit the elevation certificate or failure to make
13 said corrections required hereby shall be cause to issue a stop-work order for the
project. The elevation certificate shall be prepared by or under the direct
supervision of a licensed professional surveyor or professional engineer and
certified by the same.

Finished Construction

14 Upon completion of construction of any structure requiring certification of elevation,
15 an elevation certificate which depicts the "as-built" lowest floor elevation and
16 other applicable elevation data is required to be submitted by the applicant to the
17 Floodplain Administrator. The elevation certificate shall be prepared by or under
the direct supervision of a licensed professional surveyor or professional engineer
and certified by the same.

18 Upon completion of construction of an elevated structure constructed on fill, a fill
19 report is required to be submitted to the Floodplain Administrator to verify the
20 required standards were met, including compaction.

21 Upon completion of construction of a floodproofing measure, a floodproofing
22 certificate is required to be submitted by the applicant to the Floodplain
23 Administrator. The floodproofing certificate shall be prepared by or under the
direct supervision of a registered professional engineer or architect and certified
by same.

§ 54.027 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

24 The Floodplain Administrator and/or designated staff are hereby authorized and directed to
25 enforce the provisions of this chapter. The administrator is further authorized to render
26 interpretations of this chapter, which are consistent with its spirit and purpose.

Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

27 Enforce the provisions of this chapter.

28 Evaluate applications for permits to develop in special flood hazard areas to ensure the
29 permit requirements of this chapter have been satisfied.
30

1 Interpret floodplain boundaries and provide flood hazard and flood protection elevation
2 information.

3 Issue permits to develop in special flood hazard areas when the provisions of this chapter
4 have been met or refuse to issue the same in the event of noncompliance.

5 Advise applicant that additional Federal, State and/or local permits may be required. If
6 specific Federal, State and/or local permits are known, require that copies of such
7 permits be provided and maintained on file with the floodplain development permit.

8 Conduct substantial damage determinations to determine whether existing structures,
9 damaged from any source and in special flood hazard areas, must meet the
10 development standards of this chapter.

11 For applications to improve structures, including alterations, movement, enlargement,
12 replacement, repair, change of occupancy, additions, rehabilitations, renovations,
13 substantial improvements, repairs of substantial damage, and any other improvement
14 of or work on such buildings and structures, the Floodplain Administrator shall:

15 Verify and document the market value of the pre-damaged or pre-improved structure.

16 Compare the cost to perform the improvement; or the cost to repair a damaged
17 building to its pre-damaged condition; or the combined costs of improvements
18 and repair, if applicable, to the market value of the pre-damaged or pre-improved
19 structure. The cost of all work must be included in the project costs, including
20 work that might otherwise be considered routine maintenance. Items/activities
21 that must be included in the cost shall be in keeping with guidance published by
22 FEMA to ensure compliance with the NFIP and to avoid any conflict with future
23 flood insurance claims of policyholders within the community.

24 Determine and document whether the proposed work constitutes substantial
25 improvement or repair of substantial damage. The determination requires
26 evaluation of previous permits issued for improvements and repairs as specified in
27 the definition of "substantial improvement." For proposed work to repair damage
28 caused by flood, the determination requires evaluation of previous permits issued
29 to repair flood-related damage as specified in the definition of "substantial
30 damage." For non-substantial development, non-substantial reconstruction, or
repairs of:

Nonresidential and Residential construction in Flood Fringe, only one
development project shall be permitted per twelve (12) month period;

Nonresidential construction in the Floodway, only one development project
shall be permitted per twelve (12) month period. The project must be
submitted to DNR for approval;

Residential construction in the floodway: only one development project shall
be permitted per twelve (12) month period. The project shall not be
allowed if, in combination with all other previous development projects
since the structure was originally built, it would be more than fifty percent
(50%) of the market value of the pre-damaged or pre-improved structure;

Notify the applicant if it is determined that the work constitutes substantial

improvement or repair of substantial damage and that compliance with the applicable general and specific standards in §§ 54.035 through 54.038 is required.

Notify adjacent communities and the State NFIP Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.

Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to § 54.035(1), (3)(a), and (4). Maintain a record of such authorization (either a copy of the actual permit/authorization or floodplain analysis/regulatory assessment).

Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if § 54.035(4)) is applicable.

Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 54.026.

Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 54.026.

Make on-site inspections of projects in accordance with § 54.028(1).

Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (a substantially damaged structure) to ensure eligibility for Increased Cost of Compliance (ICC) coverage.

Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen, or other facilities requiring disposal of wastewater.

Provide information, testimony, or other evidence as needed during variance hearings.

Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with § 54.028(2) and (3).

Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of Department of Natural Resources permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this chapter in accordance with § 54.028(4).

Coordinate map maintenance activities and associated FEMA follow-up in accordance with § 54.029.

Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this chapter.

1 **§ 54.028 ADMINISTRATIVE PROCEDURES**

2 Inspections of Work in Progress. As the work pursuant to a permit progresses, the
3 Floodplain Administrator shall make as many inspections of the work as may be
4 necessary to ensure that the work is being done according to the provisions of this
5 chapter and terms of the permit. In exercising this power, the administrator has the
6 right, upon presentation of proper credentials, to enter any premises within the
7 territorial jurisdiction at any reasonable hour for the purposes of inspection or other
8 enforcement action.

9 Stop Work Orders.

10 Upon notice from the Floodplain Administrator, work on any building, structure or
11 premises that is being done contrary to the provisions of this chapter shall
12 immediately cease.

13 Such notice shall be in writing and shall be given to the owner of the property, the
14 owner's agent, or to the person doing the work and shall state the conditions
15 under which work may be resumed.

16 Revocation of Permits.

17 The Floodplain Administrator may revoke a permit or approval, issued under the
18 provisions of this chapter, in cases where there has been any false statement or
19 misrepresentation as to the material fact in the application or plans on which the
20 permit or approval was based.

21 The Floodplain Administrator may revoke a permit upon determination by the
22 Floodplain Administrator that the development for which the permit was issued is
23 in violation of, or not in conformity with, the provisions of this chapter.

24 Floodplain Management Records.

25 Regardless of any limitation on the period required for retention of public records,
26 records of actions associated with the administration of this chapter shall be kept
27 on file and maintained under the direction of the Floodplain Administrator in
28 perpetuity. These records include permit applications; plans; certifications; Flood
29 Insurance Rate Maps; Letters of Map Change; records of issuance of permits and
30 denial of permits; determinations of whether proposed work constitutes
 substantial improvement or repair of substantial damage; required design
 certifications and documentation of elevations required by this chapter;
 notifications to adjacent communities, FEMA, and the state related to alterations
 of watercourses; assurances that the flood carrying capacity of altered
 watercourses will be maintained; documentation related to appeals and variances,
 including justification for issuance or denial; and records of enforcement actions
 taken pursuant to this chapter.

 These records shall be available for public inspection at Fort Wayne City Utilities Suite
 250, 200 East Berry St, Fort Wayne, Indiana.

 Periodic Inspection.

 Once a project is completed, periodic inspections may be conducted by the Floodplain
 Administrator to ensure compliance. The Floodplain Administrator shall have the right,

upon presentation of proper credentials, to enter any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

§ 54.029 MAP MAINTENANCE ACTIVITIES

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Fort Wayne flood maps, studies and other data identified in § 54.007 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data

- a) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.
 - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.
 - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts, and subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- b) It is the responsibility of the applicant to prepare and submit to FEMA the technical data required for a Conditional Letter of Map Revision or Letter of Map Revision. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- c) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
- d) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(2) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the mayor of the City of Fort Wayne and may be submitted to FEMA at any time.

(3) Annexation / Detachment

1 Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever
2 the boundaries of the City of Fort Wayne have been modified by annexation, or the
3 community has assumed authority over an area or no longer has authority to adopt
4 and enforce floodplain management regulations for a particular area. In order that the
5 Allen County, Indiana and Incorporated Areas Flood Insurance Rate Map accurately
6 represent the City of Fort Wayne boundaries, include within such notification a copy of
7 a map of the City of Fort Wayne suitable for reproduction, clearly showing the new
8 corporate limits or the new area for which the City of Fort Wayne has assumed or
9 relinquished floodplain management regulatory authority.

10 **§ 54.030 VARIANCE PROCEDURES**

11 The Board shall hear and decide appeals and requests for variances from requirements of
12 this chapter. The applicant must follow the Design Standards Manual for the
13 timeframe in which to file an appeal.

14 The Board shall hear and decide appeals when it is alleged an error in any requirement,
15 decision, or determination is made by the Floodplain Administrator in the enforcement
16 or administration of this chapter. Any person aggrieved by the decision of the Board
17 may appeal such decision to any court of appropriate jurisdiction.

18 In considering such applications, the Board shall review all technical evaluations, all relevant
19 factors, all standards specified in other sections of this chapter, and:

20 the danger to life and property due to flooding or erosion damage.

21 the danger that materials may be swept onto other lands to the injury of others.

22 the susceptibility of the proposed facility and its contents to flood damage and the
23 effect of such damage on the individual owner.

24 the importance of the services provided by the proposed facility to the community.

25 the necessity of a waterfront location, where applicable.

26 the compatibility of the proposed use with existing and anticipated development.

27 the availability of alternative locations for the proposed use which are not subject to
28 flooding or erosion damage.

29 the safety of access to the property in times of flood for ordinary and emergency
30 vehicles.

the expected height, velocity, duration, rate of rise, and sediment transport of the
floodwater at the site.

the costs of providing governmental services during and after flood conditions,
including maintenance and repair of public utilities and facilities such as sewer,
gas, electrical, and water systems, and streets and bridges.

A written report addressing each of the above factors shall be submitted with the
application for a variance.

Variances from the provisions of this chapter shall only be granted when the Board can
make positive findings of fact based on evidence submitted at the hearing for the
following:

A showing of good and sufficient cause.

A determination that failure to grant the variance would result in exceptional hardship as defined in as defined in § 54.005.

A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

No variance for a residential use within a floodway subject to § 54.035(1), (3)(a), or (4) of this chapter may be granted.

Any variance granted in a floodway subject to § 54.035(1), (3)(a), or (4) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

Variances to the provisions for flood hazard reduction in §§ 54.035 through 54.038 may generally be granted when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.

Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the factors listed above and the purposes of this chapter, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 54.035 FLOODPLAIN STATUS STANDARDS

(1) Floodways (Riverine)

Located within SFHAs, established in § 54.007, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwater, which carries debris, potential projectiles, and erosion potential. Under the provisions of the

1 Flood Control Act (IC 14-28-1) a permit for construction in a floodway from the Indiana
2 Department of Natural Resources is required prior to the issuance of a floodplain
3 development permit or local building permit for any excavation, deposit, construction,
4 or obstruction activity located in the floodway. This includes land preparation activities
5 such as filling, grading, clearing, and paving undertaken before the actual start of
6 construction of the structure. General licenses and exemptions to the requirements of
7 the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified
8 additions/improvements to existing lawful residential structures, rural bridges, logjam
9 removals, wetland restoration, utility line crossings, outfall projects, creek rock
10 removal, and prospecting.

- 11 a. If the site is in a regulatory floodway as established in § 54.007,, the Floodplain
12 Administrator shall require the applicant to forward the application, along with all
13 pertinent plans and specifications, to the Indiana Department of Natural
14 Resources and apply for approval for construction in a floodway, provided the
15 activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC
16 10).
- 17 b. No action shall be taken by the Floodplain Administrator until approval has been
18 granted by the Indiana Department of Natural Resources for construction in a
19 floodway or evidence is provided by an applicant that the development meets
20 specified criteria to qualify for a general license or exemption to the requirements
21 of the Flood Control Act. The Floodplain Development Permit shall meet the
22 provisions contained in this chapter.
- 23 c. The Floodplain Development Permit cannot be less restrictive than an approval
24 issued for construction in a floodway issued by the Indiana Department of Natural
25 Resources, or the specified criteria used to qualify for a general license or
26 exemption to the Flood Control Act for a specific site/project. However, a
27 community's more restrictive regulations (if any) shall take precedence.
- 28 d. In floodway areas identified on the FIRM, development shall cause no increase in
29 flood levels during the occurrence of the base flood discharge without first
30 obtaining a Conditional Letter of Map Revision and meeting the requirements of §
54.029(1). A Conditional Letter of Map Revision cannot be issued for
development that would cause an increase in flood levels affecting a structure and
such development should not be permitted.
- e. In floodway areas identified by the Indiana Department of Natural Resources
through detailed or approximate studies but not yet identified on the effective
FIRM as floodway areas, the total cumulative effect of the proposed development,
when combined with all other existing and anticipated development, shall not
adversely affect the efficiency of or unduly restrict the capacity of the floodway.
This adverse effect is defined as an increase in the elevation of the regulatory
flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing
the regulatory flood elevation under the project condition to that under the
natural or pre-floodway condition, as proven with hydraulic analyses.
- f. For all projects involving channel modifications or fill (including levees) the City of
Fort Wayne shall submit the data and request that the Federal Emergency

Management Agency revise the regulatory flood data per mapping standard regulations found in 44 CFR § 65.12.

(2) Fringe (Riverine)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this chapter have been met.

(3) SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

a) Drainage area upstream of the site is greater than one square mile:

- i. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- ii. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- iii. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this chapter have been met.

b) Drainage area upstream of the site is less than one square mile:

- i. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.
- ii. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this chapter have been met.

(4) SFHAs not Identified on a Map

- a) If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the

1 site. If the drainage area upstream of the site is verified as being greater than one
2 square mile, the Floodplain Administrator shall require the applicant to forward
3 the application, along with all pertinent plans and specifications, to the Indiana
4 Department of Natural Resources for review and comment.

- 5 b) No action shall be taken by the Floodplain Administrator until written approval
6 from the Indiana Department of Natural Resources (approval for construction in a
7 floodway, letter of authorization, or evidence of general license qualification) or a
8 floodplain analysis/regulatory assessment citing the one-percent annual chance
9 flood elevation and the recommended Flood Protection Grade has been received
10 from the Indiana Department of Natural Resources.
- 11 c) Once the Floodplain Administrator has received the proper written approval,
12 evidence of general license qualification, or floodplain analysis/regulatory
13 assessment approving the proposed development from the Indiana Department
14 of Natural Resources, a Floodplain Development Permit may be issued, provided
15 the conditions of the Floodplain Development Permit are not less restrictive than
16 the conditions received from the Indiana Department of Natural Resources and
17 the provisions contained in this chapter have been met.

18 (5) Public Freshwater Lakes

19 Within the SFHA are public freshwater lakes. Public freshwater lakes are governed by IC
20 14-26-2 (sometimes referred to as the Lakes Preservation Act) and rules adopted by the
21 Natural Resources Commission in 312 IAC 11-1 through 312 IAC 11-5 to assist with its
22 implementation. A listing of public freshwater lakes can be found in the Natural
23 Resources Commission Information Bulletin #61.

- 24 a) Lakes Preservation Act jurisdiction is based on the specific lake's legally
25 established lake level, where this legally established elevation (legal lake level)
26 meets the land along the shoreline. When no legal lake level is established for a
27 lake, average normal shoreline at each site is used, based on observation of breaks
28 such as lakebed vs. ground and lines of demarcation.
- 29 b) Indiana Department of Natural Resources approval is required for excavation, fill,
30 and placement, modification, or repair of a temporary or permanent structure
over, along or lakeward of the shoreline or waterline of a public freshwater lake.
Walls landward of the shoreline (within ten (10) feet) and below legal or normal
water level of a public freshwater lake also require prior approval from the
Department of Natural Resources.
- c) General licenses and exemptions to the Lakes Preservation Act may apply to the
placement of temporary piers, dry hydrants, aerators, or glacial stone reface,
provided they meet the specific criteria of the Public Lakes Rules.
- d) No action shall be taken by the Floodplain Administrator until a permit or letter of
authorization (when applicable) has been issued by the Indiana Department of
Natural Resources granting approval or qualification for a general license has been
verified. Once a permit or approval has been issued by the Indiana Department of
Natural Resources (or general license qualification verified), the Floodplain
Administrator may issue the local Floodplain Development Permit, provided the

1 applicable provisions contained in this chapter have been met. The Floodplain
2 Development Permit cannot be less restrictive than the permit issued by the
3 Indiana Department of Natural Resources. However, a community's more
restrictive regulations (if any) shall take precedence.

4 **§ 54.036 GENERAL STANDARDS**

In all areas of special flood hazard, the following provisions are required:

5 All new construction and substantial improvements shall be anchored to prevent flotation,
6 collapse, or lateral movement of the structure.

7 New construction and substantial improvements shall be constructed with materials and
utility equipment resistant to flood damage below the FPG.

8 New construction and substantial improvements must incorporate methods and practices
9 that minimize flood damage.

10 Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service
facilities shall be located at/above the FPG for residential structures. Electrical,
11 heating, ventilation, plumbing, air conditioning equipment, and other service facilities
shall be located at/above the FPG or designed to prevent water from entering or
12 accumulating within the components below the FPG for non-residential structures.
Water and sewer pipes, electrical and telephone lines, submersible pumps, and other
13 waterproofed service facilities may be located below the FPG.

14 New and replacement water supply systems shall be designed to minimize or eliminate
infiltration of floodwater into the system.

15 New and replacement sanitary sewage systems shall be designed to minimize or eliminate
16 infiltration of floodwater into the system.

17 On-site waste disposal systems shall be located and constructed to avoid impairment to
18 them or contamination from them during flooding.

19 Any alteration, repair, reconstruction, or improvements to a structure that is in compliance
with the provisions of this chapter shall meet the requirements of "new construction"
20 as contained in this chapter.

21 Base flood elevation data shall be provided for subdivision proposals and other proposed
development (including manufactured home parks and subdivisions), which are greater
22 than fifty (50) lots or five (5) acres, whichever is less.

23 Where an existing or proposed structure or other development is affected by multiple flood
zones, multiple base flood elevations, or both, the development activity must comply
24 with the provisions of this chapter applicable to the most restrictive flood zone and the
highest base flood elevation affecting any part of the existing or proposed structure; or
25 for other developments, affecting any part of the area of the development.

26 Fill projects that do not involve a structure must be protected against erosion and scour
during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used,
27 the slopes shall be no steeper than 3 feet horizontal to 1 foot vertical.

28 Non-conversion agreements shall be required for all new or substantially improved elevated
structures with an enclosure beneath the elevated floor, accessory structures,
29
30

agricultural structures, and open-sided shelters. Each non-conversion agreement shall be recorded in the Office of the Recorder of Allen County, Indiana.

Whenever any portion of the SFHA is authorized for use, the compensatory storage requirements of the City Utilities Design Standards Manual must be met.

§ 54.037 SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data or flood depths have been provided as set forth in § 54.007, the following provisions are required:

Building Protection Requirement

In addition to the general standards described in § 54.036 structures located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

Construction or placement of a residential structure.

Construction or placement of a non-residential structure.

Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the market value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.

Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred. The costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost.

Installing a manufactured home on a new site or a new manufactured home on an existing site.

Installing a travel trailer or recreational vehicle on a site 180 consecutive days or more.

Residential Construction

New construction or substantial improvement of any residential structures shall meet provisions described in § 54.035 and applicable general standards described in § 54.036.

In Zone A and Zone AE, new construction or substantial improvement of any residential structure shall have the lowest floor, including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwater shall be provided in accordance with the standards of § 54.037(2)(c). Should fill be used to elevate a structure, the standards of § 54.037(2)(d) must be met.

Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirements:

Designed to preclude finished living space and designed to allow for the

1 automatic entry and exit of floodwater to equalize hydrostatic flood forces
2 on exterior walls. Flood openings must be designed and installed in
3 compliance with criteria set out in FEMA Technical Bulletin 1. Flood
4 openings must be designed and certified by a registered design professional
(requires supporting engineering certification or make/model specific ICC-ES
Report), or meet the following criteria for non-engineered flood openings:

5 Provide a minimum of two openings on different sides of an enclosure. If
6 more than one enclosed area is present, each must have openings on
7 exterior walls (having a total net area of not less than one square inch
for every one square foot of enclosed area).

8 The bottom of all openings shall be no more than one foot above the
9 higher of the final interior grade (or floor) and the finished exterior
grade immediately under each opening.

10 If the floor of the enclosure is below the BFE, the openings must be
located wholly below the BFE.

11 If the floor of the enclosure is at or above the BFE, but below the FPG, the
12 openings must be located wholly below the FPG.

13 Doors and windows do not qualify as openings.

14 Openings may be equipped with screens, louvers, valves, or other
15 coverings or devices, provided they permit the automatic flow of
floodwater in both directions.

16 Openings are to be not less than 3 inches in any direction in the plane of
17 the wall. This requirement applies to the hole in the wall, excluding
any device that may be inserted, such as typical foundation air vent
device.

18 The floor of such enclosed areas must be at or above grade on at least one
19 side.

20 A structure may be constructed on fill in accordance with the following:

21 Fill shall be placed in layers no greater than 1 foot deep before compacting to
22 95% of the maximum density obtainable with either the Standard or
Modified Proctor Test method. The results of the test showing compliance
shall be retained in the permit file.

23 Fill shall extend 5 feet beyond the foundation of the structure before sloping
24 below the BFE.

25 Fill shall be protected against erosion and scour during flooding by vegetative
26 cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be
no steeper than 3 feet horizontal to 1 foot vertical.

27 Fill shall not adversely affect the flow of surface drainage from or onto
neighboring properties.

28 Fill shall be composed of clean granular or earthen material.
29
30

1 A structure may be constructed using a stem wall foundation (also called chain wall,
2 raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall
3 foundation must be backfilled with compacted structural fill, concrete, or gravel
4 that supports the floor slab. No flood openings are required for this type of
5 construction.

6 Non-Residential Construction

7 New construction or substantial improvement of any non-residential structures
8 (excludes accessory structures if compliant under § 54.037(5) shall meet
9 provisions described in § 54.035 and applicable general standards described in §
10 54.036.

11 In Zone A and Zone AE, new construction, or substantial improvement of any
12 commercial, industrial, or non-residential structure (excludes accessory structures,
13 if compliant under § 54.037(5) shall either have the lowest floor, including
14 basement, elevated to or above the FPG or be floodproofed to or above the FPG.
15 Should solid foundation perimeter walls be used to elevate a structure, openings
16 sufficient to facilitate the unimpeded movements of floodwater shall be provided
17 in accordance with the standards of § 54.037(2)(c). Should fill be used to elevate
18 a structure, the standards of § 54.037(2)(d) must be met.

19 A nonresidential or accessory structure larger than 400 square feet may be
20 floodproofed in accordance with the following:

21 A registered professional engineer or architect shall certify that the structure
22 has been designed so that, below the FPG, the structure and attendant
23 utility facilities are watertight and capable of resisting the effects of the
24 regulatory flood. The structure design shall consider flood velocities,
25 duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
26 Such certification shall be provided to the Floodplain Administrator.

27 Manufactured Homes and Recreational Vehicles

28 These requirements apply to all manufactured homes to be placed on a site in the
29 SFHA:

30 The manufactured home shall be elevated on a permanent foundation such
that the lowest floor shall be at or above the FPG and securely anchored to
an adequately anchored foundation system to resist flotation, collapse, and
lateral movement.

Fully enclosed areas formed by foundation and other exterior walls below the
FPG shall be designed to preclude finished living space and designed to
allow for the entry and exit of floodwater to automatically equalize
hydrostatic flood forces on exterior walls as required for elevated structures
in § 54.037(2)(c).

Skirting not attached to the frame or foundation of a manufactured home is
not required to have openings.

Recreational vehicles placed on a site in the SFHA shall either:

Be on site for fewer than 180 consecutive days and be fully licensed and ready

for use on a public highway (defined as being on its wheels or jacking system, being attached to the site only by quick disconnect utilities and security devices, and having no permanently attached additions), or
Meet the requirements for “manufactured homes” as stated earlier in this section.

Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

Shall have a floor area of 400 square feet or less.

Use shall be limited to parking of vehicles and limited storage.

Shall not be used for human habitation.

Shall be constructed of flood resistant materials below BFE.

Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwater.

Shall be firmly anchored to prevent flotation.

Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the BFE.

Shall be designed to allow for the entry and exit of floodwater to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 54.037(2)(c).

Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

Shall have open sides (having not more than one rigid wall).

Shall be anchored to prevent flotation or lateral movement.

Shall be constructed of flood resistant materials below the FPG.

Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.

Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

Above Ground Gas or Liquid Storage Tanks

Within SFHAs, all newly placed or replacement above ground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in § 54.037(3).

§ 54.038 STANDARDS FOR SUBDIVISION AND OTHER NEW DEVELOPMENTS

1 All subdivision proposals and all other proposed new developments shall be consistent with
2 the need to minimize flood damage.

3 All subdivision proposals and all other proposed new developments shall have public
4 utilities and facilities such as sewer, gas, electrical, and water systems located and
5 constructed to minimize flood damage.

6 All subdivision proposals and all other proposed new developments shall have adequate
7 drainage provided to reduce exposure to flood hazards.

8 In all areas of special flood hazard where base flood elevation data are not available, the
9 applicant shall provide a hydrologic and hydraulic engineering analysis that generates
10 base flood elevations for all subdivision proposals and all other proposed new
11 development (including manufactured home parks and subdivisions), which is greater
12 than fifty (50) lots or five (5) acres, whichever is less.

13 All subdivision proposals shall minimize development in the SFHA and/or limit density of
14 development permitted in the SFHA.

15 All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and
16 vehicles (especially emergency responders).

17 Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a
18 manner as to preserve and utilize natural streams and channels. Wherever possible
19 the floodplains shall be included within parks or other public grounds.

20 **LEGAL STATUS PROVISIONS**

21 ***§ 54.045 SEVERABILITY***

22 If any section, subsection, sentence, clause, or phrase of this chapter is, for any reason,
23 declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision
24 shall not affect the validity of this chapter as a whole, or any part thereof, other than the part so
25 declared.

26 ***§ 54.046 EFFECT ON PRIOR CHAPTERS; ALLOCATION OF ENFORCEMENT***

- 27 (1) Simultaneous effect. This chapter takes effect on the Effective Date, at the same
28 moment [CITE CURRENT FLOODPLAIN REGULATIONS IN FWZO] is repealed (the
29 "Repeal"), so that no period elapses during which Special Flood Hazard Areas within
30 the City are unregulated. If the Repeal does not take effect for any reason, this chapter
nevertheless takes effect on the Effective Date and controls over any conflicting
provision of § 157.412.
- (2) Preserved Notices; no interference. A Preserved Notice (as defined in § 54.005)
continues to be administered and enforced by the Department of Planning Services
and the Fort Wayne Zoning Administrator as preserved by Ordinance No. _____.
Nothing in this chapter abates, supersedes, or impairs any Preserved Notice. The
Floodplain Administrator shall not compromise, release, withdraw, or diminish a
Preserved Notice.
- (3) Exclusive prospective jurisdiction. Except for Preserved Notices, all enforcement of
floodplain regulations on and after the Effective Date (as defined in § 54.005) is vested
in the Floodplain Administrator under this chapter, subject to the authority of the
Board under § 54.030 and of the City under § 54.014, including enforcement as to:

- 1 a. violations first occurring on or after the Effective Date;
- 2 b. conduct or conditions that arose before the Effective Date but that were not the
- 3 subject of a Preserved Notice; and
- 4 c. conduct or conditions underlying a Preserved Notice, to the extent they
- 5 continue on or after the Effective Date, once the Preserved Notice has been
- 6 concluded or withdrawn.

7 (4) Continuing conditions. A structure, fill, obstruction, development, or other condition

8 that was created or established in violation of § 157.412 and that exists on or after the

9 Effective Date without a valid permit or approval constitutes a continuing violation of

10 this chapter and may be enforceable by the Floodplain Administrator as to each day it

11 exists on or after the Effective Date. The Floodplain Administrator may not issue a

12 notice of violation as to any condition that is the subject of an unresolved Preserved

13 Notice until that Preserved Notice is concluded or withdrawn, or until the Department

14 of Planning Services and/or the Fort Wayne Zoning Administrator gives written

15 consent.

16 (5) No duplicate recovery. No person may be assessed a fine or penalty for the same day of

17 the same violation under both this chapter and § 157.412.

18 (6) Prior approvals recognized. Permits, variances, and approvals issued under § 157.412

19 and valid on the Effective Date remain valid according to their terms, are deemed

20 issued under this chapter for purposes of renewal, extension, amendment, revocation,

21 and enforcement, and all conditions attached to them remain enforceable by the

22 Floodplain Administrator.

23 (7) Coordination. The Department of Planning Services and/or the Zoning Administrator

24 and the Floodplain Administrator shall enter into a written memorandum of

25 understanding addressing referral of matters, records access, availability of zoning

26 inspectors as witnesses in Preserved Notice proceedings, and notification when a

27 Preserved Notice is concluded.

28 **SECTION 2.** That this ordinance, passed by the Board of Stormwater Management on

29 the 20th day of October 2026, shall take effect on January 1, 2027.

30 **SECTION 3.** That this Ordinance shall be in full force and effect from and after its

passage, that date indicated above, and any and all necessary approval has been received by the

Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

**RESOLUTION OF THE BOARD OF STORMWATER MANAGEMENT
OF THE CITY OF FORT WAYNE, INDIANA RECOMMENDING APPROVAL
OF UPDATES AND CONFORMING CHANGES TO CHAPTER 53 OF THE CITY OF FORT
WAYNE, INDIANA CODE OF ORDINANCES**

Resolution No. # 113-10-20-26-1

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, the DSM has worked with the City’s Department of Planning Services to transition floodplain administration duties from the Department of Planning Services to the DSM (the “Transition”); and

WHEREAS, as part of the Transition, DSM desires to make amendments to certain Sections of Chapter 53 of the Fort Wayne Code of Ordinances; and

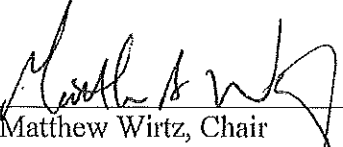
WHEREAS, said amendments would establish additional fees and provide clarifications relating to DSM’s administration of floodplain regulations following the Transition.

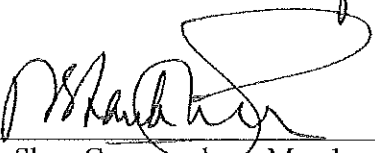
**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF STORMWATER
MANAGEMENT OF THE CITY OF FORT WAYNE (the “Board”) AS FOLLOWS:**

1. That the Board hereby recommends that the Common Council of the City of Fort Wayne, Indiana approve the amendments to the Fort Wayne Code of Ordinances set forth in red in Attachment 1, attached hereto, with all provisions not expressly amended thereby remaining unchanged.

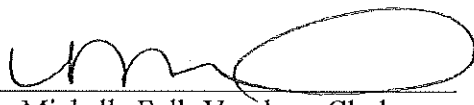
APPROVED THIS 20th DAY OF OCTOBER 2026.

BOARD OF STORMWATER MANAGEMENT

BY: 
Matthew Wirtz, Chair

BY: 
Shan Gunawardena, Member

BY: 
Chris Guerrero, Member

ATTEST: 
Michelle Fulk-Vondran, Clerk

CHAPTER 53: STORMWATER MANAGEMENT DEPARTMENT

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- 53.30 Inspection, maintenance and reporting

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- 53.70 Enforcement of §§ 53.10, 53.20, 53.30 and 53.40
- 53.71 Enforcement of other provisions of Chapter 53

GENERAL PROVISIONS

§ 53.01 BOARD OF STORMWATER MANAGEMENT TO OPERATE STORMWATER SYSTEM.

(A) *Adoption of state law.* The provisions of IC 8-1.5-5 are hereby adopted in their entirety, and the following entities established:

- (1) A Department of Stormwater Management within the Division of City Utilities.
- (2) A Board of Directors of the Department of Stormwater Management which shall consist of three directors appointed by the Mayor, not more than two of whom may be of the same political party. Directors shall serve terms of four years; however, the initial terms shall be staggered. The Mayor may remove a director at any time when, in the judgment of the Mayor, it is for the best interest of the Department.
- (3) A Stormwater Management District, extending to the corporate boundaries of the city is hereby established for the purpose of providing for the collection, treatment, and disposal of stormwater of the city in a manner which protects the public health and welfare, and for the purpose of assessing fees to pay for the cost of stormwater facilities and services. As the corporate boundaries of the city

change, whether through annexation or otherwise, so shall the boundaries of the Stormwater District change.

(B) *Powers of the Board.* The Board of Directors of the Department of Stormwater Management shall have exclusive jurisdiction over the collection and disposal of stormwater within the District, and shall possess all the powers and duties set forth in IC 8-1.5-3-4 and 8-1.5- 5-6 including but not limited to the power to:

- (1) Establish and enforce rules and regulations governing the Department of Stormwater Management.
- (2) Hold hearings following public notice.
- (3) Make findings and determinations.
- (4) Install, maintain and operate a stormwater collection, treatment, and disposal system.
- (5) Make all necessary or desirable improvements of the grounds and premises under its control.
- (6) Recommend to the Common Council reasonable and just rates and charges for services to the customers of the District.

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

§ 53.02 PURPOSE AND OBJECTIVE.

(A) The function of the Department of Stormwater Management is to provide for the safe and efficient capture and conveyance of stormwater runoff; mitigate the damaging effects of stormwater runoff; correct stormwater collection and conveyance problems; provide stormwater quality measures; and fund the activities of stormwater management including design, planning, regulation, education, coordination, construction, operation, maintenance, inspection and enforcement activities, all for the protection of the public health, welfare and safety. It is the further function of the Department of Stormwater Management to ensure the city's compliance with its NPDES stormwater discharge permit(s).

(B) It is hereby determined necessary for the protection of public health, safety and welfare and to conform with federal, state and local laws and regulations that a system of charges for stormwater service in the city be established which allocates the cost of providing stormwater service to each user in such a manner that the charges assessed are proportionate to the cost of providing stormwater service to that user, insofar as those costs can reasonably be determined.

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

§ 53.03 ABBREVIATIONS AND DEFINITIONS.

For the purpose of this chapter, the following abbreviations and definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) *Abbreviations.*

BMP Best Management Practice

BSM City of Fort Wayne Board of Stormwater Management

CSGP Construction Stormwater General Permit

CWA Clean Water Act

DSM City of Fort Wayne Department of Stormwater Management

USEPA U.S. Environmental Protection Agency

GIS Geographic Information System

IDDE Illicit Discharge Detection & Elimination

IDEM Indiana Department of Environmental Management

MS4 Municipal Separate Storm Sewer Systems

MS4 GP Municipal Separate Storm Sewer Systems General Permit

NOI Notice of Intent

NOT Notice of Termination

NPDES National Pollutant Discharge Elimination System

SWQMP Stormwater Quality Management Plan

SWP3 Stormwater Pollution Prevention Plan

(C) Definitions.

ABATEMENT. Any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting a stormwater drainage system.

AGRICULTURAL LAND DISTURBING ACTIVITY. Tillage, planting, cultivation or harvesting operations for the production of agricultural or nursery vegetative crops, pasture establishment and renovation, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tiles.

AGRICULTURAL PROPERTY. A parcel or lot exceeding five acres of land encompassing two or more structures used to support agricultural activities.

APARTMENT/CONDOMINIUM PROPERTY. A lot or parcel of real estate on which is situated a building containing five or greater single-family dwelling units, or on which two or more buildings each containing multiple single-family dwelling units are situated.

APPROVED PLANS. Plans approved by the Department of Stormwater Management according to a permits and plan review which will govern all improvements made within the city that require stormwater facilities or changes or alterations to existing stormwater facilities.

AUTHORIZED ENFORCEMENT AGENCIES. The Department of Stormwater Management, Water Pollution Control Maintenance Department, Division of Public Works and City Utilities, Department of Code Enforcement, City of Fort Wayne Police and Fire Departments, or its subcontractors shall be the agencies authorized to enforce Chapter 53 of the Fort Wayne Municipal Code.

BEST MANAGEMENT PRACTICE (BMP). Any structural or non-structural control measure used to temporarily store or treat stormwater runoff, to improve its quality and, as appropriate, reduce the quantity of stormwater runoff. Also includes the design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques and other management practices.

BOARD. Board of Directors of the Department of Stormwater Management established under § 53.01.

CHANNEL. A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

CITY-REGULATED DRAIN. Part of stormwater conveyance system under the jurisdiction of the Board of Stormwater Management, including certain ditches, tiles and sewers. These drains were formerly under the jurisdiction of the Allen County Drainage Board, prior to being transferred to the Board of Stormwater Management.

CODE. Fort Wayne Code of Ordinances.

COMBINED SEWER. A sewer that is designed, constructed, and used to receive and transport combined sewage.

CONTIGUOUS. Abutting or adjoining as in having a common boundary or edge.

CONVEYANCE. Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

COUNTY-REGULATED DRAIN. Part of stormwater conveyance system under the jurisdiction of the Allen County Drainage Board, including certain ditches, tiles and sewers.

DECHLORINATED SWIMMING POOL DISCHARGE. Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

DETENTION. The temporary storage of stormwater runoff in a basin, pond or other structure to control the peak discharge rates by holding the stormwater for a lengthened period of time and which provides some gravity settling of particulates.

DETENTION BASIN. A facility constructed or modified to restrict the flow of storm water to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

DETENTION STORAGE. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

DEVELOPED. The condition of real property altered from its natural state by the addition to or construction on such property of impervious surfaces or physical improvements such that the hydrology of the property or a portion thereof is affected.

DIRECT DISCHARGE. Stormwater runoff from a contiguous property that enters an exempt drain, such as a river, without entering the utility-controlled drainage system.

DIRECTOR. The Director of the Division of City Utilities.

DISCHARGE. The flow of any substance into the stormwater system.

DITCH. A man-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

DRAIN. Relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.

DRAINAGE. The conveyance of excess surface water or groundwater from land by means of ditches or subsurface drains.

DSM. City of Fort Wayne Department of Stormwater Management.

EQUIVALENT UNIT. A unit value, equal to the average residential amount of impervious area of a single (ERU) family residential property within the city and established at 2,500 square feet of (measured) impervious area. It is also the basis for calculating the proper assessment of stormwater charges to all users of the city stormwater system.

EROSION. The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.

EXEMPT DRAIN. A primary line of stormwater conveyance for which primary jurisdiction and maintenance fall to the State Department of Natural Resources, U.S. Army Corps of Engineers and/or the Allen County Drainage Board rather than the city.

FLOATABLE. Any solid waste that will float on the surface of the water. For the purpose of this chapter, the term does not include naturally occurring floatables, such as leaves or tree limbs.

GEOGRAPHIC INFORMATION SYSTEM (GIS). A computer system capable of assembly, storage, manipulation, and display of geographically referenced information. This technology can be used for resource management and development planning.

GROUNDWATER. Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

HYDROLOGY. The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

ILLEGAL CONNECTION. The connection of any discharge to a separate stormwater conveyance that would allow the introduction of material that is not composed entirely of stormwater and naturally occurring floatables into the stormwater conveyance system.

ILLICIT CONNECTION. Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the storm drainage system. This would include, but not be limited to, any conveyance that discharges sanitary sewage, process wastewater or washwater from sources such as indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency. Also, any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any discharge to a conveyance, other than stormwater and naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges may include sanitary wastewater, septic tank effluent, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, and household hazardous wastes.

INLET. An opening into a stormwater drainage system for the entrance of surface storm water runoff, more completely described as a storm drain inlet.

IMPERVIOUS SURFACE/AREA. Areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

INDUSTRIAL WASTE. Any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or to escape, or be transported from an industrial, manufacturing, commercial or business operation or process or from the development, recovery or processing of any natural resource carried on by any person.

INFILTRATION. The process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

LAND DISTURBING ACTIVITY. Any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff including, but not limited to, construction traffic, removal of ground cover, grading, excavating, and filling of land.

MANHOLE. Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

MONTH. The period between any two consecutive regular billings by the utility for service rendered to a customer. Billings are scheduled at intervals of approximately 30 days. For purposes of billing, a month is 25 through 35 days. Any bills produced outside the month parameter will be prorated.

MONTHLY. Occurring once in a month. For purposes of billing, bills are issued on a monthly basis or one time per month.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). An MS4 meets the following criteria:

- (a) Is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity;
- (b) Discharges to waters of the U.S.;
- (c) Is designed or used for collecting or conveying stormwater;
- (d) Is not a combined sewer; and
- (e) Is not part of a publicly owned treatment works (POTW).

NON-RESIDENTIAL PROPERTY. All properties not encompassed by the definition of **RESIDENTIAL** shall be defined as non-residential. **NON-RESIDENTIAL PROPERTY** will include:

- (a) Agricultural property;
- (b) Apartment and condominium property;
- (c) Mobile home parks;
- (d) Commercial property;
- (e) Industrial property;
- (f) Institutional property;
- (g) Governmental property;
- (h) Churches;
- (i) Schools;
- (j) Federal, state and local property; and
- (k) Any other property not mentioned in this or the list of residential properties below.

NPDES. National Pollutant Discharge Elimination System. Regulations for stormwater discharges as described in the Federal Register, 40 CFR Parts 122, 123, and 124.

NPDES PERMIT. Permit issued pursuant to Section 402 of the Clean Water Act (CWA).

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

OCCUPANT. Any person or entity that lives or does business within a real property, whether with or without any right, title or interest in the property or any person or entity in possession or charge of such real estate in the event that the owner resides or is located elsewhere.

ON-SITE STORMWATER CONVEYANCES/ CONNECTIONS. Conveyances/connections located throughout the entire area included in the legal description of the land on which land disturbing activity is to be performed.

OUTFALL. The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

OUTLET. An opening through which water is discharged.

PEAK DISCHARGE. The maximum rate of flow of water passing a given point during or after a rainfall event. The term also means the maximum instantaneous flow from a given storm condition at a specific location.

PERMANENT STABILIZATION. The establishment, at a uniform density, of vegetative cover or permanent non-erosive material on a disturbed site that will ensure the resistance of the soil to erosion, sliding, or other movement.

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

POLLUTING SUBSTANCES. Discharges of untreated wastewater and other substances from municipalities, industries, and commercial businesses that cause an imbalance in the chemical, physical, and biological integrity of the city's waters.

PRIVATE STORMWATER FACILITIES. Various stormwater and drainage works not under the control or ownership of the city, county, state and/or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

PROJECT SITE OWNER. The person who is required to submit the NOI letter and is required to comply with the terms set forth in the IDEM CSGP and MS4GP and this chapter, including either of the following: a developer or a person who has financial and operational control of construction activities and project plans and specifications, including the ability to make modifications to those plans and specifications.

PROPERTY OWNER. That individual, partnership or corporation holding the deed or record title to the property. A contract purchaser is not considered the property owner.

PUBLIC STORMWATER FACILITIES. The various stormwater and drainage works under the control and/or ownership of the city, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

RIPARIAN ZONE. Of, on, or pertaining to the banks of a stream, river, or pond.

RESIDENTIAL PROPERTY. For the purpose of this chapter, this definition refers to a lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating. This definition also includes a lot containing one individual building containing four or fewer separate or contiguous single-family dwelling units. Each and every residential property shall be assigned one ERU.

RETENTION. The holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

RETROFIT. To install a new BMP or improve an existing BMP.

RUNOFF. That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.

SEDIMENT. Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

SEDIMENTATION. The process that deposits soils, debris and other unconsolidated materials either on ground surfaces or in bodies of water or watercourses.

SEWAGE. The water-carried wastes from residences, business buildings, institutions and industrial establishments, singularly or in any combination, together with such ground, surface and stormwaters as may be present.

SEWER. May refer to storm, sanitary, or combined water conduction facility.

SHEET DRAINAGE. Storm runoff that causes sheet erosion, or the gradual removal of a fairly uniform layer of soil from the land surface.

SQUARE FOOTAGE OF IMPERVIOUS AREA. For the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard to topographic features of the enclosed surface.

STOP WORK ORDER. An order issued which requires that all construction activity on a site be stopped.

STORM EVENT. An estimate of the expected amount of precipitation within a given period of time. For example, a 10-yr. frequency, 24-hr. duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hr. period.

STORM SEWER. A sewer designed or intended to convey only stormwater, surface runoff, street wash waters, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry stormwater only, which begins at the

grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer. Also called a storm drain.

STORMWATER. Water resulting from rain, melting or melted snow, hail, or sleet.

STORMWATER FACILITIES. Various stormwater and drainage works under the control and/or ownership of the city, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move, or regulate stormwater.

STORMWATER POLLUTION PREVENTION PLAN (SWP3). A plan developed to minimize the impact of storm water pollutants resulting from construction activities.

STORMWATER QUALITY MANAGEMENT PLAN (SWQMP). A comprehensive written document that addresses stormwater runoff quality.

STORMWATER SERVICE CHARGE. A charge imposed on users of the city's stormwater collection, impounding and transportation system.

STORMWATER SERVICE CUSTOMER/USER. The owner of a lot or parcel of residential or non-residential property shall be considered the city utilities customers for the purpose of assessing stormwater service charges.

STORMWATER SYSTEM. All constructed facilities, including combined sewers, structures and natural watercourses used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations.

TRAINED INDIVIDUAL. An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enables the individual to make judgments regarding stormwater control or treatment and monitoring.

WATER BODY. Any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

WATER QUALITY. A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or manmade drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

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

§ 53.04 SEVERABILITY.

(A) The invalidity of any section, sentence, clause, division, part or provision of this chapter shall not affect the validity of any other section, sentence, clause, division, part or provision of this chapter which can be given meaning without such invalid part or parts.

(D) All ordinances or parts of ordinances and sections of the municipal code of the city in conflict herewith are hereby repealed.

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

CONSTRUCTION SITE CONTROL

§ 53.10 PURPOSE AND INTENT.

The purpose of this subchapter 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 section 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 Chapter are:

(A) To regulate construction activities disturbing more than one acre of land as governed by IDEM's Construction Stormwater General Permit (IDEM CSGP); and

(E) 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.

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

§ 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 (SWP3) 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 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.

(F) 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.

(G) 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.

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

- (1) Agricultural land disturbance activities.
- (2) Forest harvesting activities.

(I) 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 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.

(J) 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; Am. Ord. G-11-25, passed 7-22-25)

§ 53.12 RESPONSIBILITY FOR ADMINISTRATION.

The Board of Stormwater Management of the City of Fort Wayne shall administer, implement, and enforce the provisions of this Chapter.

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

§ 53.13 DETERMINATION OF LAND DISTURBANCE.

In calculating the total area of land disturbance, for the purposes of determining applicability of this Chapter to the project, the following guidelines should be used:

- (A) Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.
- (K) Strip developments will be considered as one (1) project site and must comply with this Chapter unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.
- (L) To determine if multi-lot project sites are regulated by this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:

(1) For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the minimum expected lot disturbance.

(2) For a single-family residential project site where the lots are less than one half (0.5) acre in size, the total lot must be calculated as being disturbed.

(3) To calculate lot disturbance on all other types of project sites, such as industrial and commercial projects project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

(M) The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria and the technical standards and specifications approved by the Board of Stormwater Management.

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

§ 53.14 RESPONSIBILITY FOR IMPLEMENTATION.

A project site owner shall be identified for all projects that require the submission of a Stormwater Pollution Prevention Plan (SWP3) and a construction permit per § 53.11(A).

(A) The project site owner has the following responsibilities:

(1) Ensure that a sufficient SWP3 is completed, submitted and approved by the Department of Stormwater Management (DSM).

(2) Complete a sufficient Notice of Intent (NOI) letter to be submitted to the Indiana Department of Environmental Management (IDEM), with a copy sent to the DSM.

(3) Make application and obtain a land disturbance permit in accordance with procedures established by the DSM.

(4) Ensure compliance with this Chapter during:

(a) The construction activity; and

(b) Implementation of the construction plan.

(5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved SWP3.

(6) Notify the IDEM with a sufficient Notice of Termination (NOT) letter with a copy sent to the DSM.

(B) 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:

(7) Ensure that a sufficient stormwater management construction plan has been submitted to and approved by the DSM and a construction permit has been obtained.

(8) The stormwater management plan and construction activity shall comply with the technical standards adopted by the BSM and with all sections of this Chapter and be in accordance with the applicable procedures established by the DSM.

(9) Complete his or her own sufficient Notice of Intent (NOI) letter to be submitted to the Indiana Department of Environmental Management (IDEM), with a copy sent to the DSM.

(10) Notify the IDEM with a sufficient Notice of Termination (NOT) letter with a copy sent to the DSM.

(N) 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 DSM approved SWP3 and the stormwater construction permit for the overall site, comply with the technical standards adopted by the BSM and comply with this Chapter. All work shall be performed in accordance with the applicable procedures established by the DSM.

(2) A NOI is not required.

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

(O) 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) 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.

(P) 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.

(Q) 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.

(R) 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.

(S) 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.

(T) 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.

(U) 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.

(V) 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; Am. Ord G-11-25, passed 7-22-25)

STORMWATER QUALITY MANAGEMENT CONTROL FOR POST-CONSTRUCTION

§ 53.20 PURPOSE AND INTENT.

The purpose of this subchapter is to establish requirements for the installation of permanent stormwater quality features designed to intercept and filter pollutants in stormwater discharges from newly developed or redeveloped construction sites of one acre or more. Through the use and installation of stormwater quality BMPs, stormwater runoff from these sites will be filtered and harmful amounts of sediment, nutrients and contaminants will be removed prior to reaching regional creeks, streams and rivers. The control of stormwater quality will be based on the management of total suspended solids (TSS).

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

§ 53.21 APPLICABILITY AND EXEMPTIONS.

(A) It shall be required that a Stormwater Pollution Prevention Plan (SWP3) that addresses post-construction stormwater quality control measures 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 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.

(W) 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.

(X) 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.

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

- (1) Agricultural land disturbance activities.
- (2) Forest harvesting activities.

(Z) 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 permitted 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.

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

§ 53.22 RESPONSIBILITY FOR IMPLEMENTATION.

A project site owner shall be identified for all projects that require the submission of a Stormwater Pollution Prevention Plan (SWP3) and a construction permit per § 53.11(A).

(A) The project site owner has the following responsibilities:

(5) Ensure that a sufficient Stormwater Pollution Prevention Plan (SWP3) is completed, submitted and approved by the Department of Stormwater Management (DSM). The approved SWP3 shall include the placement of appropriate Best Management Practices (BMPs), designed, constructed and maintained, from a pre-approved list specified in the City Utilities Design Standards Manual.

(6) Complete a stormwater permit application, along with a sufficient construction plan, and submit to the DSM in accordance with §§ 53.10 through 53.15.

(7) With the approved stormwater management permit, ensure proper construction and installation of all stormwater BMPs in compliance with the technical standards adopted by the DSM.

(8) Notify the Indiana Department of Environmental Management (IDEM) with a Notice of Termination (NOT) letter upon completion of the project and stabilization of the site. A copy of the Notice of Termination (NOT) letter must be submitted to the DSM.

(AA) The project site owner must submit to the DSM a Storm Water Pollution Prevention Plan (SWP3) that addresses the requirements of IDEM's Construction Stormwater General Permit (IDEM CSGP) and shows the placement of appropriate BMPs from a pre-approved list of BMPs specified in the City Utilities Design Standards Manual developed and approved by the Fort Wayne Board of Stormwater Management. The selected and approved BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the City Utilities Design Standards Manual.

(BB) Practices other than those specified in the pre-approved list may be utilized. However, the applicant shall be required to prove, to the satisfaction of the plan review staff employed by the Department of Stormwater Management for the City of Fort Wayne, that the performance and maintenance of such practices will be according to guidelines provided in the City Utilities Design Standards Manual.

(CC) It shall be the responsibility of the project site owner to complete a stormwater permit application and to ensure that a sufficient construction plan is completed and submitted to the Department of Stormwater Management in accordance with §§ 53.10 through 53.15 of this Chapter. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMPs in compliance with this Chapter with the design standards adopted by the Board of Stormwater Management for the City of Fort Wayne, and with the approved stormwater management permit. The project site owner shall notify the Department of Stormwater Management for the City of Fort Wayne upon completion of the project and stabilization of the site with a sufficient Notice of Termination letter. However, all owners of property including stormwater quality facilities meeting the applicability requirements must comply with the requirements of this Chapter.

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

§ 53.23 CALCULATIONS, DESIGN STANDARDS AND SPECIFICATIONS.

Calculation of land disturbance should follow the guidelines discussed in § 53.13 and the City Utilities Design Standards Manual adopted by the Board of Stormwater Management.

The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs, shall meet the design criteria, standards, and specifications outlined in the City Utilities Design Standards Manual adopted by the Fort Wayne Board of Stormwater Management. The methods and procedures included in these references are in keeping with the above stated policy and meet the requirements of MS4 General Permit.

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

INSPECTION, MAINTENANCE AND REPORTING

§ 53.30 INSPECTION, MAINTENANCE AND REPORTING.

(A) Upon the approval of the SWP3 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 SWP3.

(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 48 hours of a request.

(e) Sites that are issued a Notice of Violation (NOV) for non-compliance with an approved SWP3 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 § 53.63.

(B) Upon completion of the construction activities the following shall occur perpetually in accordance with the SWP3 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 SWP3 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 SWP3 or in accordance with DSM approved amendments or revisions to the SWP3.

(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 SWP3. Fees for such inspections shall be charged in accordance with the table set forth in § 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)

PROHIBITED DISCHARGES AND CONNECTIONS

§ 53.40 PURPOSE AND INTENT.

The purpose of this section is to provide for the health, safety and general welfare of Fort Wayne, Indiana through the regulation of nonstormwater discharges to the municipal separate storm sewer system and to establish the legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

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

§ 53.41 APPLICABILITY AND EXEMPTIONS.

This Chapter shall apply to all discharges, including illegal dumping, entering the stormwater drainage system under the control of the Board of Stormwater Management for the City of Fort Wayne. These discharges include flows from direct connections to the stormwater drainage system, illegal dumping, and contaminated runoff.

This section shall not apply to the following categories of nonstormwater discharges or flows which are exempted from the requirements of this Chapter per 40 CFR 122.26(d)(2)(iv)(B)(1) and may be

discharged into the separate storm sewer system so long as the appropriate tap, connection or discharge permits have been secured, if needed:

- (A) Water line flushing;
- (B) Landscape irrigation or lawn watering;
- (C) Diverted stream flows;
- (D) Rising ground waters;
- (E) Uncontaminated groundwater infiltration;
- (F) Uncontaminated pumped ground water;
- (G) Discharges from potable water sources;
- (H) Foundation, footing drains or crawl space pump discharge;
- (I) Air conditioning condensation;
- (J) Irrigation water;
- (K) Springs;
- (L) Individual residential car washing;
- (M) Flows from riparian habitats and wetlands;
- (N) Dechlorinated swimming pool discharges - chlorinated waster that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations of chlorinated residual (less than five-hundredths (0.05) milligram per liter);
- (O) Street wash water;
- (P) Discharges from firefighting activities;

Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency is also exempted from this Chapter, 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 acceptance has been granted for the subject discharge to the stormwater drainage system.

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

§ 53.42 PROHIBITED DISCHARGES AND CONNECTIONS.

(A) *Illicit Discharges Prohibited.* No person shall discharge or cause to be discharged to Fort Wayne's municipal separate storm sewer system, watercourse, or water body, directly or indirectly, any discharge that is not composed entirely of stormwater except permitted discharges per 40 CFR 122.26(b)(2). Any person discharging stormwater shall effectively minimize pollutants from also being

discharged with the stormwater through the use of best management practices (BMPs). The Department of Stormwater Management of the City of Fort Wayne is authorized to require dischargers to implement pollution- prevention measures, including BMPs, as may be necessary to prevent or reduce the discharge of pollutants into Fort Wayne's stormwater drainage system.

(B) *Illegal Connections Prohibited.* The construction, use, maintenance or existence of illegal connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illegal connections made in the past regardless of whether the connection was permissible under law or practices prevailing or applicable at the time of connection and regardless of whether the connection was approved by an authorized enforcement agency at the time of the connection.

(C) It shall be a violation of this Chapter to permit, allow or engage in the discharge of any pollutant into any waterway of the United States, including but not limited to, the St. Mary's River, the St. Joseph River, the Maumee River, any of their tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any such waterway of the United States.

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

§ 53.43 STORAGE OF HAZARDOUS OR TOXIC MATERIAL.

It shall be a violation of this Chapter to store polluting substances, as identified by USEPA or IDEM, in a manner that violates any federal, state or local statute, ordinance or regulation relating to the protection of the public health, safety and welfare or environment, when such storage is shown to have the potential of allowing discharge to any waterway of the United States including, but not limited to the St. Mary's River, the St. Joseph River, the Maumee River, any of their tributaries or streams or any streets, storm sewers or drains, ditches or drainageways leading to any such waterway of the United States.

Storage or stockpiling of hazardous or toxic material on any site must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

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

§ 53.44 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have stormwater discharge associated with industrial activity, including construction activity.

(B) *Access to Facilities.*

(1) The Fort Wayne Department of Stormwater Management shall have all authority provided by law and pursuant to the terms and conditions of any applicable permit to enter and inspect facilities as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access by properly identified representatives of the Department of Stormwater Management or authorized enforcement agencies.

(2) Facility operators shall allow the Department of Stormwater Management ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept as part of the conditions of an NPDES permit.

(3) The Department of Stormwater Management shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Department or an authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Department of Stormwater Management shall have 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 or condition that would obstruct the safe and easy access to the facility to be sampled or monitored shall be promptly removed by the operator upon the oral or written request of the Department of Stormwater Management and such obstruction shall not be replaced. The costs of clearing such access, if any, shall be borne by the facility.

(6) Unreasonable delays in allowing the Department of Stormwater Management access to a facility regulated under this Chapter is a violation of Chapter 53 of the Fort Wayne Municipal Code. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies reasonable access by the Department of Stormwater Management or an authorized enforcement agency to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

(7) If the Department of Stormwater Management has been refused access to any part of the premises from which stormwater is discharged, and it can demonstrate probable cause to believe that there may be a violation of Chapter 53 or the Municipal Code, 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 Chapter 53 of the Fort Wayne Municipal Code 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.

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

§ 53.45 POLLUTANT REDUCTION THROUGH THE USE OF BEST MANAGEMENT PRACTICES.

The Department of Stormwater Management will establish acceptable Best Management Practices (BMPs) for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the municipal storm drainage system or the waters of the United States.

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 separate storm sewer system or watercourses, using the City's approved BMPs. Further, any person responsible for a property or premise that is or may be the source of an illicit discharge may be

required to implement additional BMPs as required by the Department of Stormwater Management to prevent further discharge of pollutants into 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 to be compliance with the provisions of this section.

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

§ 53.46 PRIVATE PROPERTY MAINTENANCE DUTIES.

(A) Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries 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.

(B) Easements intended for periodic or occasional use as conductors for the flow of surface water runoff shall be maintained in an unobstructed condition by the owners of the properties they cross. The utility shall have the right to determine if any obstruction exists and to repair or maintain, or require such repair and maintenance by the property owner, as shall be reasonably necessary to keep the conductors unobstructed.

(C) No property owner or occupant shall change the stormwater runoff pattern of his property in such a way that neighboring properties or city property is adversely affected. Consideration and provisions must be made for drainage to and from neighboring properties when land use or development is altered.

(D) No property owner or occupant shall direct stormwater runoff from roof drains, sump pump outfalls or other building drains in such a way that neighboring properties or city property is adversely affected.

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

§ 53.47 SPILL REPORTING.

As soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information about any known or suspected release of material that may result in illegal discharges or pollutants entering the storm sewer system or watercourses, said person shall take all necessary steps to ensure the timely discovery, containment and cleanup of such release.

In the event of a release of hazardous material, 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 has notify the Department of Stormwater Management or authorized enforcement agency in person or by phone or facsimile no later than the next business day.

If the report is made in person or by phone, the reporting party shall confirm the notice in writing addressed to the DSM within five (5) days. The written report shall specify:

- (A) The composition of the discharge and the cause thereof;
- (B) The date, time, and estimated volume of the discharge;
- (C) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to prevent any recurrence;
- (D) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to a civil proceeding brought under this Chapter against a discharger for such discharge. The report itself shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relieve the discharger from notifying other entities as required by State or Federal regulations.

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

RATES, CHARGES AND BILLING

§ 53.55 STORMWATER SERVICE CHARGE.

A stormwater service charge shall be imposed on each and every lot and parcel of land within the city which directly or indirectly contributes to the stormwater system of the city, which charge shall be assessed against the owner thereof, who shall be considered the user for the purposes of this chapter. This charge is deemed reasonable and is necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future city stormwater system and for compliance with the city's NPDES stormwater discharge permit(s).

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

§ 53.56 STORMWATER RATE ESTABLISHMENT PROCEDURES.

- (A) The stormwater service rate shall be as follows:

<i>Stormwater Rate per Month</i>	<i>Unit of Measure</i>	<i>Effective 2025</i>	<i>Effective January 1, 2026</i>	<i>Effective January 1, 2027</i>	<i>Effective January 1, 2028</i>	<i>Effective January 1, 2029</i>
Residential	ERU	\$ 6.14	\$ 6.38	\$ 6.64	\$ 6.90	\$ 7.18
Non-Residential	ERU	\$ 4.95	\$ 5.14	\$ 5.35	\$ 5.56	\$ 5.79

For the purpose of this chapter, a month shall be considered to be a period of 25 days up through 35 days depending on billing cycles. Any billings for stormwater service outside this time shall be on a per diem basis.

(B) These stormwater rates are designed to recover the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the city's stormwater service charge. These rates are established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(Ord. G-11-07, passed 4-10-07; Am. Ord. G-5-17, passed 3-28-17; Am. Ord. G-12-25, passed 8-12-25)

§ 53.57 RATE STRUCTURE AND CALCULATION.

(A) For the purposes stated in § 53.02 and subsequent, there is hereby assessed a stormwater service charge to each user situated within the corporate limits of the city who contributes directly or indirectly to the stormwater system of the city, in an amount as determined below.

(B) For any such property, lot, parcel of land, building or premises which contributes directly or indirectly to the stormwater system of the city, such charge shall be based upon the quantity of impervious area situated thereon.

(C) All properties having impervious area within the city will be assigned a number of equivalent residential units (ERUs), with all properties having impervious surface being assigned at least one ERU.

(1) Residential properties. A monthly charge for stormwater service rendered to residential properties shall be charged to each account within the city limits according to the service address. All residential properties are hereby assigned one ERU. This fee shall apply to all residential properties as defined herein.

(2) Non-residential properties. Non-residential properties will be assigned a number of ERUs based upon the property's individually measured impervious area (in square feet) divided by 2,500 square feet (one ERU). The division will be calculated to the first decimal place.

(3) For the purposes of quantifying the discharge of non-polluted groundwater into the stormwater management system via sump pumps, geothermal heating and cooling systems or similar devices, one equivalent residential unit (ERU) shall be equal to 7,667 gallons per month.

(4) Only whole ERUs shall be used in determining the assignment of gross ERUs to a property. All rounding necessary to reach the appropriate whole ERU shall be done according to mathematical convention (0 - 0.4 rounded down to nearest whole ERU; 0.5 - 0.9 rounded up to nearest whole ERU).

(D) There shall be no exceptions or exemptions from the assignment of gross stormwater ERUs.

(Ord. G-11-07, passed 4-10-07; Am. Ord. G-5-17, passed 3-28-17; Am. Ord. G-12-25, passed 8-12-25)

§ 53.58 BILLINGS; TERMS OF PAYMENT.

(A) Billings. All stormwater bills shall be rendered on a monthly basis, along with the user's charges for other city utility services.

(B) Terms of payment. The stormwater service charges prescribed in § 53.56 shall be due on the payment date set out on the bill. It shall be a violation of this chapter to fail to pay a stormwater

service bill when due. All bills for stormwater services not paid on or before the due date, which due date shall be approximately 15 days after the bill is rendered, shall be subject to a collection or deferred payment charge of 10% on outstanding balance.

(C) Payment priority. Stormwater service charges shall take priority over all other charges for city utility services. Partial payments shall first be applied to satisfy the garbage user fee under Chapter 50 and secondly, to these charges.

(D) Collection. Delinquent stormwater service charges may be collected in a civil action along with other delinquent city utility charges, reasonable attorney fees and court costs.

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

§ 53.59 APPEALS OF ERU DETERMINATION.

(A) If, in the opinion of any user, the ERU multiple assigned to his property is inaccurate in light of the amount of impervious area of said property, the user shall have the right to contest the ERU determination and thus the rate assessed in the following manner.

(B) User shall obtain and complete a petition to appeal stormwater rate form (petition) which shall be returned to the DSM with verifiable documentation supporting user's claim.

(C) The DSM shall investigate user's claim and, upon review thereof, shall render a written determination that either the original ERU determination and assessed rate should be affirmed or the user's rate should be adjusted according to the petition.

(D) If user's petition is denied, said opinion shall be forwarded to user by certified mail, return receipt requested. User shall then have seven days from date of receipt to request a reconsideration by the Director. Any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original petition and supporting documents, to the Director. The DSM shall submit a written report of the determination in the case, along with any documents used in denying the user's claim.

(E) Thereafter, the Director, or his designee, shall review all documentation and conduct, as necessary in his opinion, an informal hearing to determine and resolve the dispute based on the documentation submitted and any oral testimony. A written opinion shall be rendered within 30 days after the hearing or submission of documentation if no hearing is conducted. The written opinion of the Director or his designee shall constitute the final DSM determination, and may be challenged by the user by a written request to the Board for formal consideration within 15 days of the Director's opinion.

(F) The Board shall conduct a hearing and issue a determination which shall be binding on the city utilities. The hearing shall be electronically recorded and a transcript of the hearing provided upon request at a cost per page as determined by the City Utilities Accounting Department and amended from time to time.

(G) A party or person aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with state law.

(H) If the DSM recommends the user's rate be reduced, or reduction is ordered by the Director, Board or court of law, user shall be credited accordingly for any overpayment made from the date of the petition.

(I) Dispute or appeal of an ERU determination for stormwater service rate shall not be a valid reason for non-payment of the originally assessed stormwater service charge by the user.

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

§ 53.60 DISCOUNT AND CREDITS POLICIES AND PROCEDURE.

(A) This section establishes a discount for land and buildings used for various purposes when exempt from property taxation under IC 6-1.1-10-1, 6-1.1-10-2, 6-1.1-10-4, 6-1.1-10-5, and 6-1.1-10-16.

(B) This section also discusses some of the most common credit considerations and requirements but is not intended to be the exclusive authority. The Board, through the rules and regulations of the DSM and the adoption of the City Utilities Stormwater Credit Manual shall more fully and completely establish the credit policies and procedures for stormwater management.

(1) Discounts. The following categories of property exempt from property taxation shall be entitled to up to a 25% discount off of the gross ERUs assigned for any such land or building under § 53.57 where the statutory exemption has been granted and can be confirmed through the records of the Allen County Auditor's office, upon property application for said discount:

(a) IC 6-1.1-10-1. Property of the United States and its agencies and instrumentalities.

(b) IC 6-1.1-10-2. Property owned by the state, and any agency thereof or the Indiana Bureau of Motor Vehicles Commission.

(c) IC 6-1.1-10-4. Property owned by a political subdivision of the state.

(d) IC 6-1.1-10-5. Property owned by the city which is used to provide a municipal service.

(e) IC 6-1.1-10-16. Property owned, occupied, and used for educational, literary, scientific, religious or charitable purposes.

(2) Credit availability.

(a) Credit will be available to all non-residential properties with more than one assigned ERU for various forms and levels of abatement.

(b) Maintenance requirements. Credit will only be allowed for properties where structural controls are maintained in fully functional condition and according to maintenance criteria and design standards issued by the DSM.

(c) Existing structure credits. Credits will be allowed for previously constructed abatement features or stormwater controls until December 31, 2025. Eligibility for credits after December 31, 2025 will be determined in accordance with this Ordinance, rules and regulations of the DSM, and the City Utilities Stormwater Credit Manual.

(d) Property location. Credit may be granted on the basis of location of a given property in relation to a major waterway of the United States, if it directly discharges its stormwater to that waterway in conformance with all maintenance criteria and design standards as applicable. The waterways covered by this section shall include the St. Mary's River, the St. Joseph River, the Maumee River, the major tributaries of these three rivers and other ditches and drains specified in the rules and regulations of the DSM, and any legal public drains under the control of Allen County.

(e) Voluntary controls. For new developments, credit will be granted where the city requires abatement features or stormwater controls to be constructed and/or maintained, and all city standards and criteria are met. Other voluntary controls or upgrades of existing systems through retrofitting will be granted credits on a case-by-case basis considering the impact of the controls on the city's stormwater system, as determined by the DSM.

(f) Detention/retention. Credit may be granted for qualifying detention basins and wet ponds. Credit may be granted for other control devices on a case-by-case basis providing sufficient technical justification is available to make such determinations.

(g) Oversizing. Oversized private stormwater facilities or improvements exceeding standard abatement design criteria and intended to serve an area larger than the Immediate project site or designed to handle a larger than specified storm event as required by the DSM shall be considered for additional credit.

(h) Industrial NPDES permit credits. No credit shall be allowed for industries in compliance with federal laws and regulations regarding industrial stormwater discharge permits at this time.

(i) Pollution reduction Credit may be granted on a case-by-case basis for efforts to reduce the amount of pollutants in a user's stormwater runoff or for improvements to the quality of a user's stormwater discharge. This could include efforts such as setback buffers or open channel maintenance activities.

(j) Regional basins. Credit will not be granted to properties draining into ponds or basins maintained or owned by the city. Credit will be considered for privately owned and maintained regional controls and will be apportioned among owners on a prearranged basis.

(k) Percent discounted credits for private stormwater facilities.

1. Discounts and credits shall be computed on an ERU basis. A maximum credit of less than 100% of the gross ERUs originally assigned can be granted for the construction and maintenance of private stormwater facilities considering the potential of each to reduce peak flow and/or volume stormwater flow and direct discharge capabilities. Private stormwater facilities eligible for credits listed above constitute elements of the secondary drainage system. The secondary system is designed to drain a limited area with benefits limited to the owners of the particular property or owners of adjacent properties. As such, secondary elements of the system are not eligible for 100% credit.

2. Further, there are administrative costs involved with operation of the DSM that must be shared by all users, including costs incurred to meet quality-based permit requirements, which provide community-wide benefits, and thus cannot be credited. Discounts and credits shall be cumulative; however, in no case shall the total amount of discounts and credits equal more than 50% of the user's gross stormwater fee.

3. The formula for determining the applicable credit percentage for individual parcels shall be specifically set out in the rules and regulations of the DSM and the City Utilities Credit Manual, as updated from time to time.

(l) Federal, state, city and county roadways, publicly-owned airport movement areas. Publicly-owned streets and roads and highway shall be given 100% credit in reliance on governmental guidance documents which classify them as an integral part of the stormwater conveyance system. Publicly-owned airport movement areas including runways, taxiways, ramps and other areas of an airport which are used for taxiing or hover taxiing, air taxiing, takeoff and landing of aircraft when constructed and maintained similarly to public roadways, shall also qualify for this credit. The surface water control systems incorporated in the design of roadways and airport movement areas are engineered to convey all design runoff without street flooding, and the like associated with frequent, small runoff events up to about five- or ten- year recurrence intervals, and as such, constitute elements of the primary drainage system. Primary elements of the drainage system yield community-wide benefits and are installed to service the general public's interests, conveying runoff from large areas encompassing whole watershed in some cases.

(3) Procedure.

(a) Timing of applications and/or determinations. Application for credits shall be made on forms provided by City Utilities and accompanied by the appropriate application fee. The fee shall be \$200 for all applications. However, in the event that a particular application requires excessive review time due to the complexity of the proposed controls or other reasons, City Utilities may charge a fee for each hour after three hours of review time at the rates set forth in Section 53.63 of the Fort Wayne Code of Ordinances. It is the intent of the city that all applications will be reviewed and credits and discounts determined within 90 days after submittal of a complete and correct application package. The credit will be effective on the 1st billing cycle following approval of the application. Credits will expire after 3 years if not renewed.

(b) Appeals. Appeals of credit or discount determinations shall be handled consistent with the procedures set out in Section 53.59 for reconsideration of ERU petitions. Appeals of credit or discount decisions will be made initially to the Director, or his designee. Should satisfaction not be achieved, an appeal may be lodged with the Board in accordance with Section 53.59.

(c) Application for credit or discount, or appeal of determination thereon shall not constitute a valid reason for non-payment of the originally assessed stormwater service charge by the user.

(Ord. G-11-07, passed 4-10-07; Am. Ord. G-12-25, passed 8-12-25)

§ 53.61 STORMWATER FUND.

All revenues earned and fees collected for stormwater service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds shall be deposited in an account entitled "City of Fort Wayne Stormwater Account." Disbursements from this account will be authorized by the Board and, as required by law, the Common Council. Such disbursements will be used exclusively for the operation, maintenance and improvement of the city's stormwater system. Funds from this account shall not revert to any other city utilities or Civil City Fund and may not be transferred for any other purpose, including to avoid a default on bonds or any city utilities fund or the city.

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

§ 53.62 DELINQUENT FEES AND PENALTIES AS LIENS; DUPLICATES; COLLECTION.

Delinquent charges for stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of IC 36-9-23-32 and 36-9-23-33.

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

§ 53.63 MISCELLANEOUS STORMWATER CHARGES.

(A) *SWP3 submittal review and fees.* The following table contains the hourly fees to be charged for review of SWP3/stormwater plan submittals and compliance inspections.

<i>Permit/Fee Type</i>	<i>Extra Submittal Review - Rate Per Hour¹</i>	<i>Extra SWP3 Inspection - Rate Per Hour²</i>
Single residential lot	\$140	\$80
Development (0-19.99 acres) ³	\$265	\$220
Development (20+ acres)	\$355	\$220

¹ Review of initial submittals and a maximum of two resubmittals will be performed at no charge to the applicant. Time spent on plan reviews beyond the initial submittal and two 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 SWP3 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:

<i>Permit/Fee Type</i>	<i>Standard Regulated Drain Review Fee</i>
Drain encroachment/drain crossing	\$220
Drain reconstruction/drain vacation/drain abandonment	\$760

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

<i>Permit/Fee Type</i>	<i>Annual BMP Inspection Fee⁴</i>	<i>BMP Extra Inspection Hourly Rate (\$/Hour)⁵</i>
Stormwater BMP	\$520	\$290
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.		

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

(D) *Floodplain review fees.* The following table contains the hourly fees to be charged for review of floodplain plan submittals, variances, modeling, and violations.

<i>Permit/Fee Type</i>	<i>Standard Review Fee⁴</i>	<i>Floodplain Hourly Rate (\$/Hour)</i>
Minor Improvements, including fences, swimming pools, and signs	\$250.00	N/A
Site Plans, including SRFs and ILPs	\$500.00	N/A
Development Plans and Plats	\$1,000.00	N/A
Stream Modeling -- Minor Projects ¹	N/A	\$100.00
Stream Modeling -- Major Projects ¹	N/A	\$170.00
Violations of City of Fort Wayne Floodplain Ordinance ²	\$2,500.00	N/A
Floodplain Ordinance Variance Review	\$1,000.00	N/A
Hourly Floodplain Review ³	N/A	\$90.00

Floodproofing Review	N/A	\$170.00
¹ Stream Modeling is available at City Utilities discretion. ² Failure to obtain or comply with a City of Fort Wayne Floodplain Permit shall be deemed a violation and punishable by a fine not exceeding \$2,500.00 for each offense, plus costs, damages, and expenses. Each day occurs or continues may be deemed a separate offense. ³ Hourly floodplain review is used for projects that require extra review beyond the initial floodplain fee. After 2 reviews additional costs may be incurred and will be charged back to the developer. ⁴ The standard review fee is a flat fee required at the time of application.		

ENFORCEMENT

§ 53.70 ENFORCEMENT OF §§ 53.10, 53.20, 53.30 AND 53.40.

(A) *Enforcement Actions Generally.* Enforcement of this Chapter shall be subject to the severity of the infraction and the responsible party's efforts to comply as determined by the Department of Stormwater Management. The Department shall reserve the right to determine the level of enforcement on a case-by-case basis. Subject to division (G) below, enforcement actions shall be initiated by the serving of a Notice of Violation and may include any one or more of the following:

- (1) Verbal warning to the responsible party/parties to make corrections.
- (2) Written warning to the responsible party/parties 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.
- (3) Warning of Non-Compliance with directions to the responsible party/parties that site conditions require immediate action.
- (4) The performance of monitoring, analysis, and reporting.
- (5) Stop Work Order.
- (6) Suspension of access to the stormwater drainage system.
- (7) Civil Penalties and fines.

(B) *Restoration and Remediation.* 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 responsible party/parties 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 responsible party/parties.

(C) *Emergency Suspensions.* The Department of Stormwater Management may, without prior notice, suspend access to the stormwater drainage system to a person or entity 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 stormwater drainage system or Waters of the United States. If a responsible party fails to comply with a suspension order issued in an emergency, the Department of Stormwater Management may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or Waters of the United States, or to minimize danger to persons.

(D) *Suspension of Access to the Stormwater Drainage System Due to the Detection of Illicit Discharge.* Any person or entity discharging to the agreed upon by the Board of Stormwater Management and the violator and that further the goals of Fort Wayne's approved Stormwater Quality Management Plan.

(E) *Civil Penalty.* Any person that has violated or continues to violate this Chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to \$2,500 dollars per violation per day. Each and every day that the violation exists shall constitute a separate offense.

(F) *Fees and Costs.* The Department of Stormwater Management may recover all reasonable attorneys' fees, court costs, consultant costs and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses to the extent permitted by law.

(G) *Remedies Not Exclusive.* The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Department of Stormwater Management to seek cumulative remedies.

(H) *Authorized Enforcement Agencies.* The Board of Stormwater Management, Water Pollution Control Maintenance Department, Division of Public Works and City Utilities, Department of Code Enforcement, and Fire Department of the City of Fort Wayne, or its subcontractors shall be the agencies authorized to enforce Chapter 53 of the Fort Wayne Municipal Code.

(I) *Appeal of Notice of Violation.* Any person receiving a Notice of Violation may appeal the determination to the Board of Stormwater Management. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before the Board or its hearing officer shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the Board or its hearing officer shall be final, subject to any right of a person to seek judicial review in a court of competent jurisdiction.

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

§ 53.71 ENFORCEMENT OF OTHER PROVISIONS OF CHAPTER 53.

(A) Failure to pay a stormwater user fee when due shall constitute a violation of this chapter, which shall be enforced by the Director and such deputies as the Director, with the approval of the Board, may appoint for such purposes.

(B) Any non-residential user charged under division (A) above and found to be in violation shall be subject to a fine of up to \$2,500 per day and shall be held responsible for the amount of the outstanding bill, in lieu of a collection action and assessment of collection or deferred payment charges set out in § 53.58(B) and (C) or lien procedures under § 53.62.

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

Interoffice Memo

Date: [October 22, 2026](#)
To: Common Council Members
From: [Anne Marie Smrcek, City Utilities Engineering](#)
RE: [Updates and Conforming Changes to Chapter 53 of the City of Fort Wayne, Indiana Code of Ordinances, Res. #113-10-20-26-4](#)

Council District # N/A – Ordinance Update

The City of Fort Wayne, Indiana, Department of Stormwater Management is responsible for managing the quantity and quality of stormwater runoff within the City's municipal boundaries. The Department of Stormwater Management has worked with the City's Department of Planning Services to transition floodplain administration duties from the Department of Planning Services to the Department of Stormwater Management. As part of this transition, the Department of Stormwater Management is proposing to establish review fees to support the administration of floodplain regulations following the January 1, 2027 transition.

Implications of not being approved: Without approval of these fees, all stormwater ratepayers will be required to subsidize the cost of these services rather than the specific customers who utilize these services.

If Prior Approval is being Requested, Justify: N/A

Council Introduction Date: [October 27, 2026](#)

CC: BOW
Matthew Wirtz
Jill Helfrich
Chrono
File