

Chapter 24

STORM WATER MANAGEMENT

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ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

Agricultural Conservation Practices shall mean practices that are constructed on agricultural land for the purposes of controlling soil erosion and sedimentation. These practices include grass waterways, sediment basins, terraces, and grade stabilization structures.

Agricultural Land Disturbance shall mean tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. For purposes of this Chapter, the term does not include land disturbing activities for the construction of agricultural related facilities, such as:

1. Barns;
2. Buildings to house livestock;
3. Roads associated with infrastructure;
4. Agricultural waste lagoons and facilities;
5. Lakes and ponds;
6. Wetlands; and
7. Other infrastructure.

Average Annual Post-Development Total Suspended Solids Load shall mean the amount of the total suspended solids load after the completion of construction activities and the achievement of permanent stabilization based on the average reading of the total suspended solids loadings from all storms less than or equal to the two year/24-hour storm.

Best Management Practices (“BMPs”) shall mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, or other management practices, including treatment practices and operating procedures, undertaken to prevent or reduce the discharge of pollutants directly or indirectly into the municipal separate storm sewer system, approved BMPs shall be compiled by the Town of Chesterton from time to time.

Clean Water Act (“*the Act*”) shall mean the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), any subsequent amendments thereto, and all rules and regulations promulgated pursuant to said Act.

Clearing shall mean any activity that removes the vegetative surface cover.

Construction Activity shall mean land disturbing activities and land disturbing activities associated with the construction of infrastructure and structures. These include construction projects resulting in land disturbance of one (1) acre or more and include, but are not limited to, such activities as clearing and grubbing, grading, excavating, and demolition.

Construction Plan shall mean a representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A Storm Water Pollution Prevention Plan (SWPPP) is a part of the Construction Plan.

Construction site access shall mean a stabilized stone surface at all points of ingress or egress to a project site for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

Discharge of a Pollutant shall mean any addition of any pollutant, or combination of pollutants, into any waters of the state.

Drainage Way shall mean any channel that conveys surface runoff throughout the site.

Dry weather violation shall mean a violation of this Chapter occurring more than twenty-four (24) hours after a wet weather event and up to a subsequent wet weather event.

Erosion shall mean the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

Erosion and Sediment Control Measure shall mean a practice or a combination of practices, to control erosion and resulting sedimentation.

Erosion and Sediment Control Permit shall mean the permit issued by the Town of Chesterton that authorizes construction activities on one (1) or more acres of land.

Erosion and Sediment Control System shall mean the use of appropriate erosion and sediment control measures to minimize sedimentation by first reducing or eliminating erosion at the source and then, as necessary, trapping sediment to prevent it from being discharged from or within a project site.

Final Stabilization shall mean that all land disturbing activities have been completed and a uniform, perennial vegetative cover with a density of at least seventy percent (70%) has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed. For construction projects on land used for agricultural purposes, final stabilization means that the land is returned to its preconstruction agricultural use.

Grading shall mean the cutting and filling of land surface to a desired slope or elevation.

Hazardous Materials shall mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge shall mean any direct or indirect non-storm water discharge to the Municipal Separate Storm Sewer System ("MS4"), except as exempted by this Chapter.

Illicit Connections shall mean either of the following: (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the MS4, and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Town of Chesterton; or (2) Any drain or conveyance from a residential, commercial or industrial land use connected to the MS4 not documented in plans, maps, or equivalent records or previously allowed, permitted, or approved by the Town of Chesterton.

Impervious Surface shall mean surfaces, such as pavement and rooftops that prevent the infiltration of storm water into the soil.

Individual Lot shall mean a single parcel of land, whether or not located within a larger common plan of development or sale.

Individual Lot Operator shall mean any individual engaged in construction activity on an individual lot.

Individual Lot Owner shall mean a person who has financial control of construction activities for an individual lot.

Industrial Activity shall mean activities subject to National Pollutant Discharge Elimination System ("NPDES") Industrial Permits as defined in 327 IAC 15-6 ("Rule 6").

Land Disturbance or land disturbing activities shall mean any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading. This term does not include routine ditch or road maintenance or minor landscaping projects.

Larger Common Plan of Development or Sale shall mean a plan, undertaken by a single project site owner, or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

Maximum Extent Practicable (MEP) shall mean the statutory standard that establishes the level of pollutant reductions that operators of regulated MS4s must achieve.

Measurable Storm Event shall mean a precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

Municipal Separate Storm Sewer System (MS4) shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, rivers, creeks, lakes, conduits of water on or underneath the ground, man-made channels, or storm drains), which are owned, monitored, or operated by the Town of Chesterton and that discharge into the waters of the United States.

MS4 Jurisdiction shall mean the town boundaries of the Town of Chesterton.

MS4 Operator shall mean the person responsible for development, implementation, and enforcement of the requirements in 327 IAC 15-13 ("Rule 13") for the Town of Chesterton MS4 jurisdiction, or his designated representative.

National Pollutant Discharge Elimination System Storm Water Discharge Permit (NPDES Permit) shall mean a permit issued by the Indiana Department of Environmental Management (IDEM) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, a group, or on a general area-wide basis.

Notice of Intent (NOI) shall mean a written notification indicating intent to comply with the terms of a specified general permit rule in lieu of applying for an individual NPDES permit.

Notice of Termination (NOT) shall mean a written notification indicating that all land disturbing activities have ceased and that the project closure requirements of the erosion and sediment control permit have been satisfied.

Operator shall mean any individual engaged in construction activity.

Peak Discharge shall mean the maximum rate of flow during a storm, usually in reference to a specific design storm event.

Person shall mean any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Permanent Stabilization shall mean the establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

Permit Holder shall mean any person, partnership, corporation, or landowner who holds, or has been issued an NPDES or Erosion and Sediment Control Permit.

Permitted Facility shall mean any facility subject to a NPDES permit.

Phasing of Construction shall mean sequential development of smaller portions of a large project site.

Pollutant shall mean anything that causes or contributes to pollution or thermal pollution, including, but not limited to, heat, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Project Site shall mean the entire area on which construction activity is to be performed.

Project Site Owner shall mean the entity required to submit an application for the Erosion and Sediment Control Permit under this Chapter and required to comply with the terms of this Chapter, including either 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.

Runoff shall mean waters derived from melting snow or rain falling within a tributary drainage basin that exceed the infiltration capacity of the soils of that basin, flow over the surface of the ground, or are collected in channels or conduits.

Sediment shall mean 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 shall mean the settling and accumulation of unconsolidated sediment carried by storm water runoff.

Soil shall mean the unconsolidated mineral and organic material on the surface of the earth that serves as the natural medium for the growth of plants.

Storm Water shall mean any surface or subsurface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm Water Pollution Prevention Plan (SWPPP) shall mean a document which describes the BMPs and activities to be implemented to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

Storm Water Quality Measure shall mean a practice, or a combination of practices, to control or minimize pollutants associated with storm water runoff.

Strip Development shall mean a single or multi-lot, commercial project site where the individual lot(s) front on an existing road.

Subdivision shall have the same meaning as that found in the Chesterton Subdivision Control Ordinance.

Temporary Stabilization shall mean the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive material applied at a uniform density of seventy percent (70%) across the disturbed area.

Total Suspended Solids Load shall mean a measure of the concentration of sediment and other solid particles suspended in the water column of a stream, lake or other body of water.

Town shall mean the Town of Chesterton, Indiana, acting by and through the Town Council of Chesterton, Indiana, or any duly authorized officials and Boards acting in its behalf and designated to enforce and administer this Chapter.

Tracking shall mean the deposition of soil that is transported from one (1) location to another by tires, tracks of vehicles, or other equipment.

Trained Individual shall mean an individual who is trained and experienced in the principles of storm water quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of course work that enable the individual to make judgments regarding storm water control or treatment and monitoring.

Wastewater shall mean any water or other liquid, other than uncontaminated storm water.

Wet weather event shall mean an occurrence of storm water runoff, snow melt runoff, or ice melt runoff as determined at a particular site.

Wet weather violation shall mean a violation of this Chapter that occurs during a wet weather event or within twenty-four (24) hours following the culmination of a wet weather event.

Sec. 24-2. Management Structure.

- A. The Chesterton Town Council hereby re-establishes the Storm Water Management Board for the Town as the same has operated in the past pursuant to I.C. 8-1.5-5 *et seq.*; and hereby establishes the following pattern of organization and administrative arrangements under which said Town will exercise its authority and discharge its responsibility for Storm Water Management. The Department of Storm Water Management (“Department”) shall consist of the following:
1. A Storm Water Management Board (“Board”);
 2. A Storm Water Superintendent (“Superintendent”);
 3. A Storm Water Commissioner;
 4. A MS4 Operator;
 5. A Storm Water Secretary;
 6. A Storm Water Attorney.
- B. There may be, as may be provided for in the Department’s budget, such other employees as are necessary to operate and maintain the system.

Sec. 24-3 - 24-15. Reserved.

ARTICLE II. STORM WATER MANAGEMENT BOARD

Sec. 24-16. Composition; Qualifications; Terms of Members; Appointments; Filling Vacancies.

- A. The Board shall consist of three (3) members, who shall be chosen by the Town Council and shall serve in accordance with I.C. 8-1.5-5-4. No more than two (2) of the directors shall be of the same political party. Members shall serve terms of three (3) years, and terms shall be staggered.
- B. Any vacancy occurring during a term of office of a member of the Board shall be filled by the appointing authority by a replacement member who shall be of the same political party and shall serve out the remaining term of the member whose office has become vacant.

Sec. 24-17. Officers and Rules of Procedure.

The Board shall, during the month of January of each year, elect a President and Vice President, who shall serve in such offices until December 31st of the year in which they were elected. The Board shall establish its own rules and procedure for the conduct of its meetings.

Sec. 24-18. Meetings.

The Board shall conduct public meetings at least once each month.

Sec. 24-19. Powers and Duties.

- A. The Board has general supervisory powers over the MS4, with responsibility for the detailed supervision of the MS4 to be vested in the Superintendent, who is responsible to the Board for the business and technical operation of the MS4. The Board may:
 - 1. Fix the number and compensation of employees;
 - 2. Adopt rules governing the appointment of employees including making proper classifications and rules to:
 - a. Determine the eligibility of applicants;
 - b. Determine by competitive examination the relative fitness of applicants for positions;
 - c. Establish eligible lists arranged according to the ratings secured;
 - d. Provide for the appointment of those having the highest ratings; and
 - e. Provide for the promotion of employees;
 - 3. Appoint a Superintendent of the MS4. The Board shall make the appointment on the basis of fitness to manage the MS4, taking into account executive ability and knowledge;
 - 4. Hire attorneys when required for the operation of the MS4;
 - 5. Hire professional or expert personnel when required for the operation of the MS4;
 - 6. Submit a budget of its financial needs for the next year in the detail required by the municipal legislative body;
 - 7. After a public hearing, recommend to the legislative body reasonable and just

- 8. rates and charges for services to the users of the Storm Water Utility; Appropriate, lease, rent, purchase, and hold all real and personal property of the Department;
 - 9. Enter upon lands for the purpose of surveying or examining the land to determine the location of any structures or systems within the MS4 jurisdiction;
 - 10. Award contracts for:
 - a. The purchase of capital equipment; or
 - b. The construction of capital improvements; or
 - c. Other property or purposes that are necessary for the full and efficient construction, management, and operation of the Department;
 - 11. Adopt rules for the safe, economical, and efficient management and protection of the MS4;
 - 12. Deposit at least weekly with the municipal fiscal officer all money collected from the Storm Water Utility to be kept in a separate fund subject to the order of the Board; and
 - 13. Make monthly reports to the fiscal officer of the receipts and disbursements of money belonging to the Department and an annual report of the condition of the Storm Water Utility.
- B. The Board may purchase by contract electricity, water, gas, power, or any other commodity or service for the purpose of furnishing the commodity or service to the users of the Storm Water Utility.
 - C. If the Board wants to purchase the commodity or service from a public utility and the parties cannot agree on a rate or charge to be paid for it, either party may apply to the commission or other appropriate State or Federal regulatory agency to establish a fair and reasonable rate or charge to be paid for the commodity or service.

Sec. 24-20. Superintendent.

- A. The Superintendent shall:
 - 1. Appoint, supervise, or dismiss all employees of the Department;
 - 2. Employ unskilled labor when needed, without competitive examination;
 - 3. Investigate all claims against the Department;
 - 4. Oversee the operation of the Department and any construction work, repairs, or alterations to the system; and
 - 5. Advise the Board in all matters that will bring about an efficient and economical operation and maintenance of the Department.
- B. The Superintendent is entitled to the compensation for his services that is determined by salary ordinance of the Town.
- C. Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other Department personnel.

Sec. 24-21. MS4 Operator.

The MS4 Operator has responsibility for the technical operation of the MS4, subject to the supervision of the Superintendent. In addition to such duties as assigned by the Superintendent, the MS4 Operator shall have those responsibilities as detailed in 327 IAC 15-13 et seq.

Sec. 24-22 - 24-29. Reserved.

ARTICLE III. ILLICIT AND ILLEGAL DISCHARGE

Sec. 24-30. Applicability.

This Article shall apply to all landowners, permit holders, developers, other entities in possession, or other persons acting with or without the consent of a landowner which affects any real estate located within the MS4 jurisdiction.

Sec. 24-31. Responsibility for Administration.

The Department shall administer, implement, and enforce the provisions of this Chapter within the MS4 jurisdiction. Any powers granted or duties imposed upon the Town may be delegated in writing by the Town to persons or entities acting in the beneficial interest of or in the employ of the Town.

Sec. 24-32. Discharge Prohibition.

- A. Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the MS4 any materials, including but not limited to pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards, other than storm water.
- B. Exempted Discharges. The following discharges are exempt from discharge prohibitions established by this Article:
 - 1. Water line flushing or other potable water sources, landscape or agricultural irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space pumps, air conditioning condensation, springs, non-commercial washing of passenger vehicles, natural riparian habitat or wet-land flows, swimming pools containing less than one parts per million (PPM) chlorine, fire fighting activities, and any other water source not containing pollutants.
 - 2. Discharges specified in writing by the Town as being necessary to protect public health and safety.
 - 3. Dye testing is an allowable discharge, but requires a verbal notification to the Town prior to the time of the test.
 - 4. Non-storm water discharges permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.
- C. Prohibition of Illicit Connections. No person shall construct use, maintain or permit any illicit connection to the MS4, including any illicit connection made prior to the adoption of this Article, regardless of whether the connection was permissible under law or practice prevailing at the time of the connection.

- D. Violations involving the discharge of hazardous or non-hazardous materials. In addition to any other remedies provided under this Chapter, violations of Section 23-32(A) may be prosecuted through the Ordinance Violations Bureau established by Section 1-13 of the Town Code. A first offense involving the discharge of non-hazardous materials shall be punishable by a fine of one hundred dollars (\$100) per occurrence. Second and subsequent offenses shall be punishable by a fine of two hundred fifty dollars (\$250) per occurrence. Each day that a violation is found to exist shall constitute a separate violation. Violations involving discharge of hazardous materials shall be punishable by a fine of two hundred fifty dollars (\$250) per occurrence. In addition, the Town shall be entitled to enforce offenses involving the discharge of hazardous materials through any combination of fines, injunctive relief, and the use of the administrative hearing process set forth in this Chapter.
- E. Violations involving the illicit connection of hazardous materials. In addition to any other remedies provided under this Chapter, violations of Section 23-32(C) may be prosecuted through the Ordinance Violations Bureau established by Section 1-13 of the Town Code. All illicit connections shall immediately be disconnected. In addition, a first offense involving the illicit connection of non-hazardous materials shall be punishable by a fine of one hundred dollars (\$100) per occurrence. Second and subsequent offenses shall be punishable by a fine of two hundred fifty dollars (\$250). Each day that a violation is found to exist shall constitute a separate violation. Violations involving connection of hazardous materials shall be punishable by a fine of two hundred fifty dollars (\$250) per occurrence. The Town shall be entitled to enforce offense involving the illicit connection of hazardous materials through any combination of fines, injunctive relief, and the use of the administrative hearing process set forth in this Chapter.

Sec. 24-33. Suspension of MS4 Access.

- A. Illicit Discharges in Emergency Situations. The Town may, without prior notice, suspend discharge access to a person when such suspension is necessary to stop an actual or threatened illegal discharge or any discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, to the MS4 or any watercourse, whether or not contained within the MS4. If the violator fails to comply with a suspension order issued in an emergency, the Town may take such steps as deemed necessary to prevent or minimize damage to the MS4 or any watercourse, whether or not contained within the MS4.
- B. Detection of Illicit Discharge. Any person discharging in violation of this Article may have their access to discharge to the MS4 terminated in order to abate or reduce an illicit discharge. The Town will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town for reconsideration and a hearing.
- C. Reinstatement of Access. No person whose discharge access has been suspended or terminated may reinstate MS4 access without the prior approval of the Town.

Sec. 24-34. Industrial or Construction Activity Discharges.

Any person engaged in industrial and/or construction activity and subject to a NPDES permit shall comply with all provisions of such permit. Prior to allowing any such person to discharge into the MS4, the Town may require proof of compliance with said permit in a form acceptable to the Town.

Sec. 24-35. Monitoring of Discharges.

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

- A. The Town shall be permitted to enter and inspect facilities subject to regulation under this Article as necessary to determine compliance. If a facility has security measures in force, which require proper identification and clearance before entry into its premises, necessary arrangements shall be made to allow access to representatives of the Town.
- B. Facility operators shall allow the Town ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- C. The Town shall have the right to set up on any permitted or non-permitted facility such devices as the Town deems necessary to conduct monitoring and/or sampling of a facility's storm water discharge.
- D. The Town may require the owner or operator of a facility 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 facility at its own expense. All devices used to measure storm water flow and quality shall be calibrated at a minimum in accordance with manufacturer's specifications to ensure their accuracy.
- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the permit holder at the written or oral request of the Town and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator of the facility.
- F. Unreasonable delays in allowing the Town access to a permitted or non-permitted facility is a violation of this Article. The operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Town reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.
- G. On the proper showing that access to a facility is being denied and that probable cause exists to believe there is a violation of this Article, or the need to inspect and/or sample is necessary to verify compliance with this Article or any Order issued here under, the Town may seek the issuance of a search warrant from a court of competent jurisdiction.

- H. The Town may require a SWPPP from commercial facilities which, in the opinion of the MS4 Operator, have the potential to pollute receiving waters within the MS4 jurisdiction based on past activities at the site or the nature of the commercial activity.

Sec. 24-36. Requirement to Use Best Management Practices (BMPs).

The Town will adopt requirements identifying BMPs for any activity, operation, or facility, which may cause or contribute to pollution or contamination of the MS4. 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 MS4 through the use of these structural and non-structural BMPs. Further, any person responsible for an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a SWPPP as necessary for compliance with requirements of the NPDES permit.

Sec. 24-37. Notification of Spills.

- A. Notwithstanding any other requirements of law, any person who has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into the MS4 shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the MS4 Operator in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the MS4 Operator within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for no less than three (3) years from the date of the discharge.
- B. Violations. In addition to any other remedies provided under this Chapter, violations of this Section may be prosecuted through the Ordinance Violations Bureau established by Section 1-13 of the Town Code. The first offense of any section of this Chapter shall be punishable by a fine of one hundred dollars (\$100). Second and subsequent fines shall be punishable by a fine of two hundred fifty dollars (\$250) per occurrence. Each day that a violation is found to exist shall constitute a separate violation.

Sec. 24-38. Enforcement.

- A. Notice of Violation. In addition to any other remedies provided under this Chapter, whenever the Town finds that a person has violated any provision or requirement of this Article, the Town may order compliance by written notice of violation to the responsible person. Such notice may require the violator to cure or mitigate the violation by

requiring the performance of any or all of the following:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or illegal discharges;
3. That illegal discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

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

- B. Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination to the Board. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within thirty (30) days from the date of receipt of the notice of appeal unless the hearing is extended by agreement. The decision of the Board shall be in writing and shall be final, subject to the right of appeal to the Superior Court of Porter County, filed within thirty (30) days from the date of the decision of the Board.
- C. Abatement. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation within thirty (30) days of the decision of the Board, provided no appeal has been filed with the Superior Court, then representatives of the Town are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Sec. 24-39. Costs of Abatement.

In the event the Town abates a violation in accordance with Section 38(C) of this Article, the owner of the property will be notified of all costs of abatement, including administrative costs, within fifteen (15) days from the date the violation is abated. The costs of abatement shall be paid by the owner of the property. If the amount due is not paid within thirty days, the costs of abatement shall become a fee and special assessment against the property and shall constitute a lien on the property for the amount of the assessment pursuant to I.C. 8-1.5-5-29(b).

Sec 24-40. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Town may petition to a court of competent jurisdiction for a preliminary or permanent

injunction restraining the person from activities which would create further violations or compelling the person to abate or remediate the violation. In addition to all other remedies available, the Town may recover reasonable attorneys' fees, court costs and all other expenses associated with enforcing the provisions of this Article.

Sec. 24-44 - 24-49. Reserved.

ARTICLE IV. STORM WATER RUNOFF FROM CONSTRUCTION SITES

Sec. 24-50. Applicability.

- A. Unless expressly provided otherwise, the requirements of this Article shall apply to all construction sites with a land disturbance greater than or equal to one (1) acre, or a land disturbance of less than one (1) acre provided that it is part of a larger common plan of development or sale that will disturb more than one (1) acre, initiated after the adoption of this Chapter.
- B. In determining whether a construction site is subject to this Article, the following shall apply:
 - 1. Off-site construction activities that provide services including, but not limited to, road extensions, sewer, water, and other utilities, to a permitted project site, shall be considered a part of the permitted project site when the activity is under the control of the project site owner.
 - 2. Multi-lot project sites shall be subject to this Section, unless the total combined land disturbance on all individual lots is less than one (1) acre and the individual lots are not part of a larger common plan of development or sale. The 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, taking into consideration the following:
 - a. 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 expected lot disturbance.
 - b. 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.
 - c. To calculate land disturbance on all other types of project sites, including industrial and commercial project sites, the following apply:
 - i. Where lots are one (1) acre or greater in size, a minimum of one (1) acre of land disturbance shall be considered as the expected lot disturbance.
 - ii. Where the lots are less than one (1) acre in size, the total land area shall be considered disturbed.
- C. For purposes of this Article, strip developments are considered as one (1) project site and shall comply with this Article.
- D. Provided other applicable permits contain provisions requiring immediate implementation of erosion and sediment control measures, this Article shall not apply to the following:
 - 1. Persons involved in agricultural land disturbing activities or forest harvesting activities;
 - 2. Landfills that have been issued a certification of closure under 329 IAC 10;
 - 3. Coal mining activities permitted under I.C. 14-34;
 - 4. Municipal solid waste landfills accepting waste pursuant to a permit issued by the

5. IDEM under 329 IAC 10 containing equivalent storm water requirements; or Road and regulated drain maintenance.

Sec. 24-51. Project Site Owner Responsibilities.

Each project site owner subject to this Article shall:

1. Ensure that a Construction Plan/SWPPP is completed and submitted in accordance with Section 24-56 of this Article;
2. Ensure compliance with this Article during the land disturbing activity and the implementation of the SWPPP;
3. Ensure that all construction activity takes place pursuant to a valid Erosion and Sediment Control Permit issued in accordance with this Article;
4. Complete and submit a Notice of Intent (NOI) in accordance with Section 24-57 of this Article;
5. Complete and submit a Notice of Termination Letter (NOT) in accordance with Section 24-60 of this Article;
6. Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this Article and the approved Construction Plan/SWPPP; and,
7. Inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the requirements of this Article, the conditions and standards included in the Construction Plan/SWPPP and the schedule for proposed implementation.

Sec. 24-52. Individual Lot Owner or Operator Responsibilities.

- A. An individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with the activities on individual lots.
- B. For an individual lot where land disturbance is expected to be one (1) acre or more and the lot does not lie within a project site permitted under this Article, the individual lot owner shall:
 1. Complete and submit a NOI in accordance with this Article; and
 2. Ensure that a Construction Plan/SWPPP is completed, submitted and followed in accordance with this Article.
- C. For an individual lot where the land disturbance lies within a project site permitted under this Article, the individual lot operator is not required to submit an NOI or a Construction Plan/SWPPP. The individual lot operator shall comply with the provisions and requirements of the Construction Plan/SWPPP developed by the project site owner and the requirements under this Article. At the time of building permit application, the individual lot operator shall submit a lot site plan demonstrating compliance with all required erosion and sediment control measures.

Sec. 24-53. General Requirements for Storm Water Quality Control

- A. All storm water quality measures and erosion and sediment controls necessary to comply with this Article must be implemented in accordance with the Construction Plan/SWPPP.
- B. A project site owner shall meet the following requirements, at a minimum:
 - 1. Sediment-laden water flowing from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.
 - 2. Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.
 - 3. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
 - 4. Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
 - 5. Storm water runoff leaving a project site must be discharged in a manner that is consistent with Town Code and all applicable state or federal laws.
 - 6. The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:
 - a. A copy of the valid erosion and sediment control permit and any applicable NPDES permit number;
 - b. The name, company name, telephone number, e-mail address (if available), and address of the project site owner, or a local contact person; and
 - c. The location of the construction plan, if the project site does not have an on-site location to store and keep a copy of the plan.
 - 7. The Construction Plan/SWPPP shall serve as a guideline for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted storm water run-off.
 - 8. The project site owner shall inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this rule and the conditions and standards of the Construction Plan/SWPPP and the schedule for proposed implementation.
 - 9. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.
 - 10. Appropriate measures shall be planned and installed as part of an erosion and

sediment control system.

11. All storm water quality measures must be designed and installed under the guidance of a trained individual.
 12. Sediment control measures for sheet flow areas.
 13. Sediment control measures for concentrated flow areas.
 14. Sediment control measures for storm sewer inlet protection.
 15. Runoff control measures (e.g. diversions, rock check dams, slope drains, etc.)
 16. Storm water outlet protection specifications.
 17. Grade stabilization structure locations and specifications.
 18. Sediment control associated with dewatering and directional boring operations.
 19. Erosion and sediment control provisions for stream/channel crossings
 20. 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.
 21. 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.
 22. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water runoff.
 23. Un-vegetated areas that are scheduled or likely to be left inactive for fifteen (15) calendar days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent (70%) shall be re-stabilized using appropriate methods to minimize the erosion potential.
 24. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this Article shall be maintained in working order.
 25. A self-monitoring program that contains all requirements in Sec. 24-58 of this Article.
 26. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
 27. Achieve final stabilization.
- C. Individual building lots within a permitted project shall meet the following requirements:
1. Erosion and sediment control requirements associated with activities on individual lots.
 2. Installation and maintenance of a stable construction site access.
 3. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
 4. Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been

achieved.

5. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.
6. Erosion and sediment control specifications for individual building lots.
7. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
8. Each individual residential lot shall meet the criteria for final stabilization.

D. Violations. In addition to any other remedies provided under this Chapter, violations of this Section may be prosecuted through the Ordinance Violations Bureau established by Section 1-13 of the Town Code.

1. Dry weather violations. Dry weather violations of this Section shall be punishable by a fine of one hundred dollars (\$100) for a first offense. Second and subsequent violations shall be punishable by a fine of two hundred fifty dollars (\$250) per occurrence. Each day that a violation is found to exist shall constitute a separate violation. Violations that are not remedied after a second or subsequent violation may result in a stop work order.
2. Wet weather violations. Wet weather violations of this Section shall be punishable by a fine of two hundred fifty dollars (\$250) per occurrence. Each day that a violation is found to exist shall constitute a separate violation. Second and subsequent wet weather violations of this Section may, in addition to any fine issued, result in a stop work order.

Sec. 24-54. Erosion and Sediment Control Permit

No construction activity or land disturbing activity shall occur unless the MS4 Operator has issued an Erosion and Sediment Control Permit under this Article.

Sec. 24-55. Erosion and Sediment Control Permit application and procedure

Any person who commences any construction activity or land disturbing activity shall first obtain an Erosion and Sediment Control Permit by submitting the Construction Plan/SWPPP, along with an application fee of \$250.00, plus an additional \$10.00 for each lot. The application fee shall cover the administrative expense of reviewing the application for compliance with this Article. The MS4 Operator shall review the Construction Plan/SWPPP for compliance with this Article. In no event shall any construction or land disturbing activities occur prior to the expiration of sixty (60) days from the date the Construction Plan/SWPPP is received by the MS4 Operator.

Sec. 24-56. Requirements for Construction Plan/Storm Water Pollution Prevention Plan

- A. The Construction Plan/SWPPP must be prepared, signed and sealed by a Registered Professional Engineer, and must be designed to, at the least, meet the general

requirements in section 24-53 of this Article and must specifically include the following:

1. Cover Sheet (24" x 36") that includes:
 - a. An index indicating the location, in the construction plans, of all information required by this subsection; and
 - b. A vicinity map depicting the project site location in relationship to recognizable local landmarks, towns, and major roads, such as a USGS topographic quadrangle map or county or municipal road map.
2. General Note Sheet (24" x 36") that includes:
 - a. Description of the nature and purpose of the project;
 - b. Soil properties, characteristics, limitations, and hazards associated with the project site and the measures that will be integrated into the project to overcome or minimize adverse soil conditions;
 - c. General construction sequence of how the project site will be built, including phases of construction;
 - d. Hydrologic Unit Code (14 Digit) available from the United States Geological Survey (USGS);
 - e. Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site; and
 - f. Listing of all General Requirements for Storm Water Quality Control in Section 24-53 (B) of this Article.
3. Primary Plat Sheet (24" x 36") that includes:
 - a. Project site map showing lot numbers, lot boundaries, and road layout and names; and
 - b. Legal description of the project site, to the nearest quarter section, township, and range, and including the civil township.
4. Existing Project Site Layout Sheet (24" x 36") at a 1:20 (unless otherwise approved by the MS4 Operator) that includes:
 - a. Location of all existing topographic features and structures on the project site;
 - b. Location and name of all wetlands, lakes, and water courses on or adjacent to the project site;
 - c. Existing topography at a one (1) foot contour interval to indicate drainage patterns;
 - d. One hundred (100) year floodplains, floodway fringes, and floodways, or a notation if none exist;
 - e. Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NCRS) Soil Survey, or an equivalent publication, or as determined by a soil scientist. A soil legend must be included with the soil map;
 - f. Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site; and
 - g. Land use of all adjacent properties.
5. Final Project Site Layout Sheet (24" x 36") at a 1:20 scale (unless otherwise approved by the MS4 Operator) that includes:
 - a. Location of all proposed site improvements, including roads, utilities, lot

- delineation and identification, proposed structures, and common areas;
 - b. Proposed final topography at a one (1) foot contour interval to indicate drainage patterns;
 - c. One hundred (100) year floodplains, floodway fringes, and floodways, or a notation if none exist;
 - d. Proposed topographic information; and
 - e. Finished Garage Floor Elevations labeled for all lots.
- 6. Overall Grading and Drainage Plan Sheet (24" x 36") at a 1:20 scale (unless otherwise approved by the MS4 Operator) that includes:
 - a. Proposed final topography at one (1) foot contour interval to indicate drainage patterns;
 - b. The five (5) year storm frequency peak discharge for the project site pre-construction, and the one hundred (100) year storm frequency peak discharge for the project site post-construction;
 - c. Location, size, and dimensions of all storm water drainage systems, such as culverts, storm sewers, and conveyance channels;
 - d. Location, size, and dimensions of features, such as permanent retention or detention facilities, including existing or manmade wetlands, used for the purpose of storm water management;
 - e. Delineated and labeled drainage sub-basins;
 - f. Drainage arrows and spot elevations to delineate the surface run-off flow route;
 - g. Finished Garage Floor Elevations for all lots;
 - h. Locations where storm water might be directly discharged into ground water, such as abandoned wells or sinkholes, or a notation if none exists;
 - i. Locations of specific points where storm water discharge will leave the project site; and
 - j. Name of all receiving waters. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.
- 7. Stockpile Plan Sheet (24" x 36") that includes:
 - a. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site;
 - b. Location of all soil stockpiles and borrow areas;
 - c. Information regarding any off-site borrow, stockpile, or disposal areas that are associated with a project site and under the control of the project site owner;
 - d. Proposed topographic information;
 - e. Identification of areas where concrete truck washout is permissible and required erosion control measures for this activity; and
 - f. Identification of stable construction site access for all construction traffic ingress and egress to the project site.
- 8. Erosion Control General Note Sheet (24" x 36") that includes:
 - a. Temporary stabilization sequence of implementation;
 - b. Permanent stabilization sequence of implementation;
 - c. Construction sequence describing the relationship between implementation of storm water quality measures and stages of

- d. construction activities;
 - e. Self-monitoring program including plan and procedures;
 - f. A description of potential pollutant sources associated with the construction activities, that may reasonably be expected to add a significant amount of pollutants to storm water discharges; and
 - g. Material handling and storage associated with construction activity shall meet the spill prevention and spill response requirements in 327 IAC 2-6.1.
9. Post-Construction Storm Water Pollution Prevention Plan Sheets (24" x 36") at a 1:20 scale (unless otherwise approved by the MS4 Operator) that includes:
- a. A description of potential pollutant sources from the proposed land use, that may reasonably be expected to add a significant amount of pollutants to storm water discharges;
 - b. Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality measures;
 - c. A description of measures that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and storm water retention and detention ponds;
 - d. A sequence describing when each post-construction storm water quality measure will be installed;
 - e. Storm water quality measures that will remove or minimize pollutants from storm water run-off; and
 - f. Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat;
 - g. A narrative description of the maintenance guidelines for all post-construction storm water quality measures to facilitate their proper long term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures.
- B. The MS4 Operator may, upon finding reasonable cause, require modification to the Construction Plan/SWPPP if it is determined that changes are necessary due to site conditions or project design changes. Revised plans, if requested must be submitted to the appropriate entity within fourteen (14) calendar days of a request for a modification. In no event shall construction activity takes place prior to the expiration of forty-five (45) days after the date the revised plans are submitted to the MS4 Operator.

Sec. 24-57. Notice of Intent.

- A. Information Requirements. The following information must be submitted with a complete NOI letter under this Article:
- 1. Name, mailing address, and location of the project site for which the notification is submitted.

2. The project site owner's name, address, telephone number, e-mail address (if available), ownership status as federal, state, public, private, or other entity.
 3. Contact person (if different than project site owner), person's name, company name, address, e-mail address (if available), and telephone number.
 4. A brief description of the construction project, including a statement of the total acreage of the project site. Total acreage claimed in the NOI letter shall be consistent with the acreage covered in the construction plan.
 5. Estimated dates for initiation and completion of construction activities. Within forty-eight (48) hours of the initiation of construction activity, the project site owner must notify the MS4 Operator and the IDEM of the actual project start date.
 6. The latitude and longitude of the approximate center of the project site to the nearest fifteen (15) seconds, and the nearest quarter section, township, range, and civil township in which the project site is located.
 7. Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots, and other similar improvements.
 8. The number of acres to be involved in the construction activities.
 9. Proof of publication in a newspaper of general circulation in the Town that notified the public that a construction activity is to commence, that states, "(Company name, address) is submitting an NOI letter to notify the Town and the IDEM of our intent to comply with the requirements under 327 IAC 15-5 to discharge storm water from construction activities for the following project: (name of the construction project, address of the location of the construction project). Runoff from the project site will discharge to (stream(s) receiving the discharge(s))."
 10. A written certification by the MS4 Operator that:
 - a. The storm water quality measures included in the Construction Plan/SWPPP comply with the requirements of this Article and that an erosion and sediment control permit has been issued;
 - b. The measures required by this Article will be implemented in accordance with the Construction Plan/SWPPP;
 - c. If the projected land disturbance is one (1) acre or more, the Town has been sent a copy of the Construction Plan/SWPPP for review;
 - d. Storm water quality measures beyond those specified in the Construction Plan/SWPPP will be implemented during the life of the permit if necessary to comply with this Article; and
 - e. Implementation of storm water quality measures will be inspected by trained individuals.
 11. The name of receiving water or, if the discharge is to the MS4, the name of the MS4 Operator and the ultimate receiving water.
 12. The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).
- B. All NOI letters shall be sent at least forty-eight (48) hours prior to the initiation of land disturbing activities at the site to the following:
 Attention: Rule 5 Storm Water Coordinator
 Indiana Department of Environmental Management

Office of Water Quality, Urban Wet Weather Section
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

and to:

MS4 Operator
Town of Chesterton
726 Broadway
Chesterton, IN 46304-2229

Sec. 24-58. Self-Monitoring Requirements.

- A. A self-monitoring program that includes the following must be implemented at all permitted project sites:
1. A trained individual shall perform a written evaluation of the project site a minimum of one (1) time per week and by the end of the next business day following each measurable storm event.
 2. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly and identify additional measures necessary to remain in compliance with all applicable statutes and rules.
 3. Written evaluation reports must include:
 - a. the name of the individual performing the evaluation;
 - b. the date of the evaluation;
 - c. problems identified at the project site; and
 - d. details of corrective actions recommended and completed.
 4. All evaluation reports for the project site must be made available to the MS4 Operator or other designated entity within forty-eight (48) hours of a request.
 5. Evaluation reports must be maintained for a period of two (2) years from date of NOT.
 6. All evaluation reports will be scanned and submitted in electronic format (CD-ROM) to the Town of Chesterton no later than ninety (90) days from the date of NOT.
- B. Violations. The failure to file self-monitoring reports required by this Section may be prosecuted through the Ordinance Violations Bureau established by Section 1-13 of the Town Code. Dry weather violations of this Section shall be punishable by a fine of one hundred dollars (\$100) for a first offense. Second and subsequent dry weather violations shall be punishable by a fine of two hundred fifty dollars (\$250). Each day that a violation is found to exist shall constitute a separate violation. We weather violations of this Section shall be punishable by a fine of two hundred fifty dollars (\$250). Each day that the violation is found to exist shall constitute a separate violation. Violations that are not remedied after a second or subsequent violation may result in a stop work order.

Sec. 24-59. Inspection and Violations.

- A. The Town shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Construction Plan/SWPPP as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Town shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the Town at least two working days before the following:
 - 1. Start of construction;
 - 2. Installation of erosion and sediment control measures;
 - 3. Completion of site clearing;
 - 4. Completion of rough grading;
 - 5. Completion of final grading;
 - 6. Close of the construction season; and
 - 7. Completion of final landscaping.
- B. The Town or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section 24-58.
- C. All persons engaging in construction activities on a project site shall be responsible for complying with the Construction Plan/SWPPP and the provisions of this Article.
- D. The MS4 Operator shall investigate potential violations of this Article to determine which person may be responsible for the violation. The MS4 Operator shall, if appropriate, consider public records of ownership, building permits issued by local units of government, and other relevant information, which may include site inspections, Construction Plans/SWPPPs, permit applications, and other information related to the specific facts and circumstances of the potential violation.

Sec. 24-60. Project Termination.

- A. The project site owner shall plan an orderly and timely termination of land disturbing activities, including the implementation of storm water quality measures that are to remain on the project site.
- B. Except as provided in Section 24-60(C), the project site owner shall submit a NOT letter to the MS4 Operator or other designated entity certifying that each of the following conditions have been met:
 - 1. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.
 - 2. All temporary erosion and sediment control measures have been removed.
 - 3. All post-construction certified BMPs and associated control devices have been installed and documented with the MS4 jurisdiction.
- C. The project site owner may submit an NOT letter to obtain early release from compliance with this Article if the following conditions are met:

1. The remaining, undeveloped acreage does not exceed three (3) acres, with contiguous areas not to exceed one (1) acre.
 2. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.
 3. All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.
 4. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.
 5. All permanent storm water quality measures have been implemented and are operational.
- D. The MS4 Operator shall verify the information in the NOT letter. Provided the information in the NOT letter is verified, the MS4 Operator shall issue a written approval of the NOT letter to the project site owner. Upon receipt of written approval of the NOT letter from the MS4 Operator, the Erosion and Sediment Control Permit shall no longer be valid and the project site owner shall no longer be responsible for compliance with this Article, except to the extent that any BMPs constitute infrastructure for which the project site owner remains responsible pursuant to any applicable guarantee issued in favor of the Town.
- E. Following receipt of a written approval from the MS4 Operator, the project site owner shall notify in writing all current individual lot owners and all subsequent individual lot owners of the remaining undeveloped acreage and acreage with construction activity that they are responsible for complying with this Article. The remaining individual lot owners do not need to submit an NOT letter. The notice must contain a verified statement that each of the conditions in Section 24-60(B) has been met. The notice must also inform the individual lot owners of the requirements to:
1. Install and maintain all appropriate erosion and sediment control measures as part of the approved Construction Plan/SWPPP.
 2. Follow all requirements of Section 24-52.

Sec. 24-61. Duration of Erosion and Sediment Control Permit.

- A. A permit issued under this Article is granted for a period of five (5) years.
- B. Once the five (5) year permit term duration is reached, the permit issued under this Article will be considered expired, and, as necessary for construction activity continuation, a new permit application would need to be submitted in accordance with subsection (c).
- C. To obtain a renewal permit, the information required under Section 24-56(A) of this Article must be submitted to the MS4 Operator ninety (90) calendar days prior to the expiration of the permit. Coverage under a renewal permit will begin on the date of expiration from the previous five (5) year permit term. The Construction Plan/SWPPP

shall be updated and submitted according to this Article, unless the MS4 Operator certifies that an updated Construction Plan/SWPPP is not required.

Sec. 24-62. Enforcement.

- A. Stop-Work Order; Revocation of Permit. In the event that any person holding or acting pursuant to an Erosion and Sediment Control Permit pursuant to this Article violates the terms of the permit or performs construction activity that fails to implement measures in the Construction Plan/SWPPP to reduce and eliminate erosion, the MS4 Operator may issue an immediate stop work order.
- B. Failure to Maintain Storm Water Quality Measures. If remaining storm water quality measures are not properly maintained by the owner or occupier of the property, the Town may pursue enforcement against that person for correction of deficiencies under 327 IAC 15-1-4.
- C. Inspection of Records. Construction Plans/SWPPPs, self-inspection logs, and other supporting documentation associated with the project site must be made available to the MS4 Operator within forty-eight (48) hours of any such request.
- D. Violation and Penalties. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Article. Any person violating any of the provisions of this Article shall be subject to the general penalty provisions found in Section 1-9 of the Chesterton Town Code, with each day during which any violation of any of the provisions of this Article is committed, continued, or permitted, constituting a separate offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Article shall be required to bear the expense of such restoration.

Sec. 24-63 - 24-100. Reserved.

ARTICLE V. POST-CONSTRUCTION STORM WATER MANAGEMENT

Sec. 24-101. Applicability.

The requirements of this Article shall apply to the owners of all parcels of real estate subject to and constructed in accordance with Article IV of this Chapter. In determining whether a parcel of real estate is subject to or exempted from the requirements of this Article, the applicability requirements of Sec. 24-50(A) to (D) shall govern.

Sec. 24-102. General Requirements for Post-Construction Storm Water Management.

- A. The owner of any parcel of real estate subject to the requirements of this Article shall comply with all storm water quality measures and practices required by Sec. 24-56(A)(9) of this Chapter and identified in the Construction Plan/SWPPP.
- B. The owner of any parcel of real estate subject to the requirements of this Article shall install and maintain at the owner's cost east post-construction storm water quality measure approved as part of the Construction Plan/SWPPP or approved and implemented according to Sec. 24-103 of this Article.
- C. The owner of any parcel of real estate subject to the requirements of this Article shall permit monitoring and inspection of all storm water quality measures and practices approve as part of the Construction Plan/SWPPP or approved and implemented according to Sec. 24-103 of this Article.

Sec. 24-103. Performance Criteria.

All persons subject to this Article shall employ storm water quality measures approved as part of the Construction Plan/SWPPP, provided that such storm water quality measures are achieving elimination of 80% or more of the average annual post-development total suspended solids load. In the event that the storm water quality measures approved as part of the Construction Plan/SWPPP are not meeting this criteria, the owner shall be responsible for implementing, at the owner's expense, a recognized storm water quality measure in order to achieve this performance criteria.

Sec. 24-104. Monitoring and Inspection.

- A. In General. The Town may monitor and inspect any approved storm water quality measure approved by the Town as part of a Construction Plan/SWPPP and maintained according to this Article or implemented pursuant to Sec. 24-103 of this Article in order to determine compliance with the performance criteria established by Sec. 24-103. In addition, the Town may enter onto any parcel pursuant to 24-35 of this Chapter for the purpose of monitoring or inspecting any storm water quality measure employed within the MS4 jurisdiction in order to determine compliance with this Article.
- B. Access to records. All persons subject to this Article shall make available for inspection by the Town all records of the installation and maintenance of any storm water quality

measure employed within the MS4 jurisdiction. Records related to the installation and maintenance of any such storm water quality measure shall be retained for a minimum of five (5) years after the date of the installation and/or maintenance and shall be made available to the Town during any monitoring and/or inspections by the Town.

Sec. 24-105. Enforcement of Violations.

The Town shall have all the remedies of enforcement found in Sec. 24-38 to 24-40 of this Chapter to enforce compliance with this Article, including the remedy of abatement.

Sec. 24-106 – 24-199. Reserved.

ARTICLE VI. RATES AND CHARGES

Sec. 24-200. Definitions. Unless the context specifically indicates otherwise, the meaning of the terms in this Article shall be as follows:

- A. *Equivalent Residential Unit (ERU)* shall mean a unit value which is equal to the average amount of impervious surface area for a single family home within the MS4 jurisdiction of the Town of Chesterton. One (1) ERU has been determined to equal 3,585 square feet of impervious surface area.
- B. *Impervious Surface Area* shall mean the amount, measured in square footage, of the surfaces on a parcel of land, such as pavement and rooftops, that prevent the infiltration of storm water into the soil
- C. *Non-residential user* shall mean any user of a parcel of land or building located within the MS4 jurisdiction of the Town, which is not a residential user.
- D. *Residential user* shall mean any user of a parcel of land or building located within the MS4 jurisdiction of the Town, which is use primarily as a residence and contains two (2) or less single-family dwelling units.
- E. *User* shall mean the owner of a parcel of land or building located within the MS4 jurisdiction of the Town of Chesterton.

Sec. 24-201. Charges Levied. There shall be a storm water utility user fee assessed on each and every lot and parcel of real property within the MS4 jurisdiction of the Town of Chesterton in order that the storm water utility shall recover revenue, which is proportional to the cost of the operation and maintenance of the storm water system.

Sec. 24-202. Classes of Users. The classes of users of the storm water system shall be as follows:

- A. Residential
- B. Non-Residential

Sec. 24-203. Determination of Charges. The Town shall collect rates and charges from users of the storm water system, which rates and charges shall be payable as hereinafter provided and shall be in an amount, per calendar month, determined as follows:

	User Class	Base Rate	Variable Rate	Total
A.	Residential	\$4.15	\$1.95	\$6.10
B.	Non-Residential	\$4.15	\$1.95 per ERU	

Non-Residential Users with less than 3,585 square feet of impervious surface area will be billed at a rate of one (1) ERU. For Non-Residential Users, calculations of the ERU will be rounded to the nearest whole number.

Sec. 24-204. Billing. The rates and charges established by this Article shall be prepared, billed and collected by the Town in a manner provided by law and ordinance. The rates and charges for all users shall be prepared and billed bi-monthly, along with the billing provided for the purpose of collecting the rates and charges for sewage service and shall be due on the payment date set out on said bills. The

rates and charges shall be billed to the user. All charges not paid within twenty (20) days from and after the billing date are declared delinquent and a penalty of ten percent (10%) of the amount of the rates and charges shall attach thereto. Provided that, no penalties shall attach where, immediately preceding the delinquent bill, an owner has made twelve (12) consecutive bi-monthly payments on time. In the event of an action brought by the Town in its name to collect delinquent rates, in addition to any delinquent rates, charges and penalty, the Town may recover the costs of litigation and its reasonable attorney's fees. Additionally, payments and/or penalties that have been due and unpaid for at least ninety (90) days may be filed as a lien against the real property.

Sec. 24-205 – 24-299 Reserved.

ARTICLE VII. VIOLATIONS AND ENFORCEMENT

Sec. 24-300. General Enforcement Provisions.

Nothing in this Article shall be construed to limit the authority of the Town to pursue a violation of this Chapter as specifically provided in Sections 24-33, 24-38, 24-39, 24-40 and 24-62 of this Chapter.

Sec. 24-301. Administrative Hearings and Fines.

- A. When the MS4 Operator has cause to believe that a user has violated any provision of this Chapter, the MS4 Operator may initiate an administrative hearing before the Board, as provided in I.C. 36-1-6-9. The MS4 Operator shall provide notice of the hearing to the user no later than ten (10) days prior to the hearing and shall include in the notice:
 - 1. Specific details of the alleged violation;
 - 2. The date and time of the hearing and a statement that the user has the right to cross-examine witnesses and evidence and the right to present evidence regarding the alleged violation;
 - 3. A statement that the Board may consider the evidence and, upon a showing of a violation by the preponderance of the evidence, impose an administrative fine of up to \$2,500.00 for a first violation of this Article, and up to \$7,500.00 for a second or subsequent violation of this Article, or order other appropriate relief.

- B. The Board shall issue a determination whether the charged violation has been proved by a preponderance of the evidence and the amount of the fine, if any, in writing no later than thirty (30) days after the date of the hearing and a copy of the determination shall be provided to the user. The Board's determination shall be final unless a user files an appeal with the Porter Superior Court no later than thirty (30) days after the date of the determination.

Sec. 24-302. Civil Actions.

In lieu of an administrative hearing set forth in Sec. 24-301 of this Chapter, the Town may initiate an action in a court of competent jurisdiction to enforce any provision of this Chapter. The Town may petition for the issuance of a preliminary or permanent injunction in addition to any civil penalties that may be available. In addition to any injunctive relief and civil penalties that may be ordered by the Court, the Town shall be entitled to recover all attorneys fees, costs and litigation expenses, including the costs of any monitoring or testing conducted by the Town prior to or during litigation, as well as expert witness fees.

Sec. 24-303 - 24-314. Reserved.