

ORDINANCE NO. 2008-___
AN ORDINANCE REGULATING CONTROL OF
POST CONSTRUCTION STORM WATER RUNOFF

WHEREAS, Ordinance No. 2003-14, adopted by the Common Council of the City of Jasper on March 19, 2003, established the Department of Storm Water Management for the City of Jasper; and

WHEREAS, The Control of Post Construction Storm Water Runoff Ordinance is designed to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction by minimizing increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion; minimizing increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality; minimizing the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable; and reducing storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety; and

WHEREAS, The State of Indiana, by and through its Department of Environmental Management (IDEM), has adopted certain amendments to storm water discharges under 37 Indiana Administrative Code (IAC) 5 and developed a new rule under the 327 IAC 15, General Permit Rule Program to add the federal requirements for Municipal Separate Sewer Systems (MS4s); and

WHEREAS, the City of Jasper, Indiana is required to adopt the Control of Post Construction Storm Water Runoff Ordinance in order to comply with IDEM's required MS4 Storm Water Quality Management Plan.

WHEREAS, it is in the best interest of the City of Jasper and its citizens that this Ordinance be adopted for the purpose of more effectively managing post construction storm water runoff in the City of Jasper and in order to comply with IDEM's requirements.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF JASPER, INDIANA, as follows:

SECTION 1. That this Ordinance shall be known as "Chapter 14.40 Post Construction Storm Water Runoff Control" in the Code of Municipal Ordinances of the City of Jasper, Indiana and be referenced as indicated.

SECTION 2. (Section 14.40.010.) **Purpose.** The purpose of this Chapter is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction by: minimizing increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion; minimizing increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality; minimizing the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable; and reducing storm water runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety. The City of Jasper has adopted Erosion Control Standards which are included in its City of Jasper Design Standards and Specifications Manual. This Manual and IDEM's Indiana Storm Water Quality Manual shall be used as a guide to meet the purpose stated above.

SECTION 3. (Section 14.40.020) **Authority.** This Chapter is adopted under the authority granted by Indiana Code 36-1-4-11, 36-7-4, and all acts supplemental and amendatory thereto. This authority provides for the administration, enforcement, and amendment of this Chapter for control of Post Construction Storm Water Runoff in the City of Jasper.

SECTION 4. (Section 14.40.030) **Applicability.** This Chapter applies to all land-disturbing activities over one acre on land within the corporate boundaries and jurisdiction of the City of Jasper, including commercial, industrial, residential, and highway development, except for (1) cultivating activities, (2) conservation practices on agricultural land, (3) single family residential developments consisting of four or fewer lots, (4) a single family residential strip development where the developer offers for sale or lease without land improvements and the project is not part of a larger common plan of development or sale, and (5) single or two (2) family residential lots within a permitted project. In addition, this Chapter also applies to all areas of 'redevelopment' as defined herein and other sensitive critical areas.

SECTION 5. (Section 14.40.040) **Responsibility for Administration.** The City of Jasper shall administer, implement, and enforce the provisions of this Chapter by and through the City Engineer's office. Any powers granted or duties imposed upon the City of Jasper may be delegated in writing by the City to persons or entities acting in the beneficial interest of or in the employ of the City.

SECTION 6. (Section 14.40.050) **Compatibility with other Permit and Code Requirements.** This Chapter is not intended to interfere with, abrogate, or annul any other Chapter, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other Chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SECTION 7. (Section 14.40.060) **Definitions.** For the purposes of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "APPLICANT" -- A property owner or agent of a property owner who has filed an application for a storm water management permit.
- (2) "BUILDING" -- Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.
- (3) "BUFFER STRIP" -- Areas of open vegetated land adjacent to drainage ways, storm water facilities, lakes, ponds, streams, wetlands, or other surface waters.
- (4) "CITY" -- The City of Jasper, or designated party.
- (5) "CHANNEL" -- A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- (6) "HOTSPOT" -- An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
- (7) "IMPERVIOUS SURFACE" -- A surface layer of application, like pavement or rooftops that prevents the infiltration of storm water into the soil.
- (8) "INFILTRATION" -- The process of percolating storm water into the subsoil.
- (9) "JURISDICTIONAL WETLAND" -- An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a

prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(10) “LAND DISTURBING ACTIVITY” -- Any manmade change of the land surface including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading. In the context of this Chapter, it includes only nonagricultural land-disturbing activities.

(11) “LANDOWNER” -- The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

(12) “MAINTENANCE AGREEMENT” -- A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

(13) “NONPOINT SOURCE POLLUTION” -- Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

(14) “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(15) “PERSON” -- Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, state agency, any interstate body or any other legal entity or their legal representative, agent or assigns legally capable of owning property in the state.

(16) “POLLUTANT” – A pollutant is something that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations so that some 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 or building a structure; sediments and noxious or offensive matter of any kind.

(17) “RECHARGE” -- The replenishment of underground water reserves.

(18) “REDEVELOPMENT” -- Any construction, alteration or improvement exceeding 5,000 square feet in areas where existing land use is business, industrial, institutional or multi-family residential.

(19) “RIPARIAN ZONE” -- The area along water bodies that serve as interfaces between terrestrial and aquatic ecosystems

(20) “RUNOFF” – An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.

(21) “SITE” -- The entire area included in the legal description of the land on which land-disturbing activity has been proposed in the permit application.

(22) “STOP WORK ORDER” -- An order issued which requires that all construction activity on a site be stopped.

(23) “STORM WATER MANAGEMENT” -- The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

(24) “STORM WATER MANAGEMENT FACILITY” – A storm water management structure or non structural practice.

(25) “STORM WATER RUNOFF” – Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(26) “STORM WATER TREATMENT PRACTICES (STPS)” -- Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to storm water runoff and water bodies.

(27) “STORM WATER POLLUTION PREVENTION PLAN” -- A document which describes the Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to the MS4 or State Waters or Waters of the United States to the maximum extent practicable. .

(28) “SWALE” -- A grassy depression in the ground designed to collect storm water runoff from streets, driveways, rooftops and parking lots.

SECTION 8. (Section 14.40.070) **Design Criteria, Standards and Specifications for Control of Post Construction Storm Water Runoff.** All post construction storm water runoff control measures including, but not limited to, those required to comply with this Chapter shall meet the design criteria, standards, and specifications for post construction storm water runoff control measures similar to or the same as those outlined in the City of Jasper Design Standards and Specifications Manual and the Indiana Storm Water Quality Manual, published by IDEM.

SECTION 9. (Section 14.40.080) **Submission of Application, Storm Water Pollution Prevention Plan, and Approval.** No person shall begin a land-disturbing activity or redevelopment subject to this Chapter without first submitting, and having approved, an Erosion Control Application, which includes submitting a Pollution Prevention Plan, to the City. In the event there is not a requirement for an Erosion Control Application, but the project is subject to this Chapter, then an application for approval of owner’s Pollution Prevention Plan must be submitted to the City. An application should be made after the initial coordination meeting with the City. By submitting an application, the applicant is agreeing that the City may enter the site to obtain information required for review of the storm water pollution prevention plan. This permit is in addition to a General Storm Water Permit (Rule 5) required under 327 IAC 15-5, if required.

(1) Content of Storm Water Pollution Prevention Plan

At a minimum, the Storm Water Pollution Prevention Plan shall include a project narrative, a vicinity map, construction plans and calculations. A detailed listing of the plan requirements can be found in the City of Jasper Design Standards and Specifications Manual and the Indiana Storm Water Quality Manual, published by IDEM.

(2) Review of the Storm Water Pollution Prevention Plan

The City shall review the application and the Storm Water Pollution Prevention Plan in conjunction with the subdivision plat and local improvement permit application (if required) to determine whether the requirements of this Chapter have been met. If the conditions are not met, the City shall inform the applicant in writing and either may require additional information or may disapprove the plan. If requested, additional information shall be submitted. The City shall

again determine whether the plan meets the requirements of this Chapter. If the plan is disapproved, the City shall inform the applicant in writing, giving reasons for disapproval. If the plan is approved, the City shall inform the applicant of such in writing.

(3) Duration of Approval

Approval under this section shall be valid from the date of approval through the date the City notifies the owner that all storm water management practices have passed the final inspection required under the approval conditions.

(4) Surety Bond

As a condition of approval, the City may require the applicant to provide a surety bond or an irrevocable letter of credit, if one is not already included in the plat requirements approved by the Plan Commission of the City, when the storm water pollution prevention plan has been approved to guarantee a good faith execution of the erosion and sediment control plan and any conditions of approval.

The surety bond shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer or land surveyor employed by the applicant and the City Engineer, Storm Water Coordinator or the Storm Water Management Board's designee that the storm water practice has been installed in accordance with the approved plan and other applicable provisions of this Chapter. Prior to release, the City will make a final inspection of the storm water practice to ensure that it is in compliance with the approved plan and the provisions of this Chapter.

(5) Requirements

- (a) Notify the City at least 24 hours before commencing any construction of storm water management measures;
- (b) Obtain written approval from the City prior to implementing any changes to the most recently approved storm water pollution prevention plan with all requests for changes to be submitted to the City in writing;
- (c) Install all storm water quality measures as identified in the approved storm water pollution prevention plan;
- (d) Maintain all road drainage systems, storm water drainage systems, erosion control measures, and other facilities identified in the storm water pollution prevention plan until the project has been terminated;
- (e) Where legal, remove sediment resulting from land-disturbing activities from adjacent surfaces and drainageways and/or repair erosion damage to adjacent surfaces and drainageways;
- (f) Allow the City to enter the site for verifying compliance with the storm water pollution prevention plan or for the performing of any work necessary to bring the site into compliance with the storm water pollution prevention plan; and
- (g) Notify the City of the completion of storm water management measures within seven days after their initial site installation.

SECTION 10. (Section 14.40.090) General Requirements for Control of Post Construction Storm Water Runoff.

(1) All sites shall develop a Storm Water Pollution Prevention Plan. The plan must include: 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 discharge; location, dimensions, detailed specifications, and construction details of all post construction storm water quality measures; a description of measures that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed; a

sequence describing when each post construction storm water quality measure will be installed; and a narrative description of the maintenance guidelines for all post construction storm water quality measures to facilitate their proper long term function.

(2) All site designs shall establish storm water management practices to control the peak flow rates of storm water discharge associated with specified design storms and reduce the generation of storm water. These practices should seek to utilize swales and natural depressions as site conditions allow, utilize pervious areas for storm water treatment and to infiltrate storm water runoff generated from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(3) All storm water runoff generated from new development shall not discharge untreated storm water directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the City. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) or the Indiana Department of Natural Resources (IDNR).

(4) All sites shall preserve buffer strips and riparian zones, create filter strips, minimize land disturbance, minimize surface imperviousness, minimize directly connected impervious areas, maximize open space, direct growth away from sensitive areas and toward areas that can support it without compromising water quality, have storage, have infiltration, in any combination, where appropriate to reduce the impact of pollutants in storm water run-off on receiving waters.

(5) Infiltration practices will not be allowed in wellhead protection areas, as defined by IDEM.

(6) Discharges from an MS4 area will not be allowed directly into sinkholes or fractured bedrock without treatment that results in the discharge meeting Indiana ground water quality standards as referenced in 327 IAC 2-11.

(7) Any storm water practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana ground water quality standards as referenced in 327 IAC 2-11.

(8) As site conditions allow, the rate at which water flows through the MS4 conveyances shall be regulated to reduce outfall scouring and stream bank erosion. Where necessary, channel protection shall be provided to protect stream channels from degradation.

(9) As site conditions allow, a vegetated filter strip of appropriate width shall be maintained along unvegetated swales and ditches.

(10) New retail gasoline outlets, new municipal, state, federal, or institutional refueling areas, or outlets and refueling areas that replace their existing tank systems shall be required to design and install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water run-off.

(11) Storm water discharges to critical areas with sensitive resources (i.e., wellhead protection areas, cold water fisheries, shellfish beds, swimming beaches, recreational waters, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.

(12) Certain industrial sites are required to prepare and implement a storm water pollution prevention plan in accordance with 327 IAC 15-6, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge

Elimination System (NPDES) general permit. The storm water pollution prevention plan requirement applies to both existing and new industrial sites.

(13) Storm water discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, may require the use of specific structural storm water treatment practices and pollution prevention practices.

(14) Storm water management practices that are part of a Pollution Prevention Plan shall have a landscape detail showing both the vegetation to be in the practice and how and who will manage and maintain this vegetation.

SECTION 11. (Section 14.40.100) **Maintenance of Storm Water Runoff Control Measures.**

(1) Maintenance Agreement and/or Maintenance Covenants/Deed Restriction.

Prior to the issuance of any approval under this Chapter that has a storm water management facility as one of the requirements of the approval, the owner of the site shall execute a maintenance agreement and/or shall assure that a maintenance covenant/deed restriction is in place that shall be binding on all subsequent owners of land served by the storm water management facility.

The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Chapter. The agreement shall be recorded by the owner in the Dubois County Recorder’s Office. The owner shall provide a copy of the recorded agreement to the City Engineer’s office.

In the alternative, or in addition to the agreement described above, maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant or Deed Restriction in the plat or Deed for the property to which the covenant applies that shall be approved by the City and recorded in the Dubois County Recorder’s Office. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant or restriction shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

(2) Requirements for Maintenance Covenants/Deed Restrictions and Agreements

All storm water management facilities shall undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Chapter and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found shall be addressed in a timely manner, as determined by the City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water management facility.

(3) Failure to Maintain Practices

If an owner(s), after receiving notice from the City in which the owner(s) is given ten calendar (10) days to meet the requirements of the maintenance covenant/deed restriction or agreement, fails or refuses to meet the requirements of the maintenance covenant/deed restriction or agreement, the City may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.

In the event that the storm water management facility becomes an immediate danger to the public health, safety, economic impact or general welfare of the City, the City has the right to immediately effect maintenance and repair of the facility for the sole purpose of protecting the public health, safety, economic impact or general welfare of the City.

The City may assess the owner(s) of the storm water management facility for the cost of repair work and any penalties; and invoice of said cost of such work shall be sent to the owner who shall be given thirty (30) days to pay said invoice. An appeal may be taken to the Storm Water Management Board. If no appeal is taken or said invoice is not paid within the time period allowed, the amount may be filed as a lien on the property or an action may be filed in the Dubois County Circuit or Superior Court to recover the cost of the repair work and any penalties, attorney fees and any other costs of the work or proceeding.

SECTION 12. (Section 14.40.110) **Inspection.**

(1) Construction Inspection

To ensure compliance with the storm water pollution prevention plan, the City shall inspect sites having ongoing land-disturbing activities as deemed appropriate by the City.

If land disturbing activities are being carried out without a permit, the City shall issue a stop work order pursuant to the provisions of IC 36-1-4-11 and IC 36-1-6-2.

(2) Post Construction Inspection

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other storm water treatment practices.

(3) Notice of Violation

Persons receiving a notice of violation may be required to halt all operational activities. This “cease and desist order” will be in effect until the City confirms that the operational activity is in compliance with all applicable City of Jasper Ordinances and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil or monetary penalties in accordance with the enforcement measures authorized in this Ordinance.

(4) Right-of-Entry for Inspection

When any new storm water management facility is installed on private property, or when any new connection is made between private property and a public storm water management facility, the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This also includes the right to enter a property when it has a reasonable basis to believe that a violation of this Chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Chapter.

SECTION 13. (Section 14.40.120) **Proper Credential or Identification Required.** The City shall present proper credentials or identification before entering upon the property of the person.

SECTION 14. (Section 14.40.130) **Enforcement.** Prior to the imposition of a fine, the intent of the City in enforcement of this ordinance is, wherever possible, to work with and communicate with the person doing the land disturbing activities.

(1) Stop Work Order

- (a) The City shall post a stop work order if:
 - i) Any non-complying land-disturbing activity regulated under this Chapter is being undertaken.
 - ii) The post construction storm water plan is not being implemented in good faith; or
 - iii) The conditions of the approval are not being met.
- (b) Upon appeal to the Storm Water Management Board, a stop work order or the revocation may be retracted or modified.
- (c) Ten (10) days after posting a stop work order, the City may issue a notice of intent to the owner and/or violator stating that 14 days after issuing the notice of intent the City will use the surety bond to perform the work necessary to provide compliance with this Chapter.
- (d) If, within five (5) days after notification, the owner and/or violator does not comply with the erosion and sediment control plan or permit conditions, the City shall revoke its approval.
- (e) Administrative Fines
 - (i) When the City finds that a person has violated, or continues to violate, any provision of this Chapter, the City may impose an administrative fine against such person in an amount not to exceed \$2,500.00 on a per violation, per day basis, plus any administrative or remediation costs.
 - (ii) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the person.
 - (iii) Compliance with the provisions of this Chapter also may be enforced by injunction.

(2) Cease and Desist Orders

- (a) When the City finds that a person has violated, or continues to violate, or that City determines that there is a danger to the public health, safety, welfare or economic impact, the City may issue an order to the person directing it to cease and desist all such violations and directing the person to:
 - i) Immediately comply with all requirements; and
 - ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge; and
- (b) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against person.

SECTION 15. (Section 14.40.140) **Project Termination.** An orderly and timely termination of a project with land-disturbing activities should be planned between all persons involved with a site.

(1) When a project has been completed, the owner and/or person who had obtained approval for the Plan shall request, in writing, the City for approval of storm water management measures which are to remain on the site to evaluate the adequacy of these control measures. The person with local approval shall submit “as built” drawings with their request. If “as built” drawings are not submitted with the request, the request will not be accepted.

- (a) If the storm water management measures are approved, any surety bonds and/or letters of credit shall be released forthrightly by the Board of Public Works and Safety. However, maintenance responsibilities as set forth in Section 14.40.100 shall remain with the person owning the land.
- (b) If the storm water management measures are not approved because they are not in line with either the storm water pollution prevention plan or the general principles of this Chapter, the City shall notify, in writing, the

owner and/or person who had obtained approval for the Plan of the items that need remedied in order to complete the project. After a minimum period of two weeks during which corrective measures are taken, a request, again in writing, may be sent asking the City to evaluate the adequacy of the storm water management measures. If, in good faith, the City again decides that the storm water management measures are inadequate, the City may delay the release of any surety bonds and/or letters of credit for up to two months, but only if said bond or letter of credit remains valid past the new date for compliance. After an agreed upon time period of two months or longer has lapsed without corrective measures being taken, the City may use the surety bonds to finance changes or additions to the storm water management measures needed to complete the project.

SECTION 16. (Section 14.40.150) **Violations Deemed a Public Nuisance.** In addition to the enforcement process and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of the Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

SECTION 17. (Section 14.40.160) **Judicial Enforcement Remedies.**

(1) **Injunctive Relief**

When the City finds that a person has violated, or continues to violate, any provision of this Chapter, an NPDES permit, or order issued hereunder, or any other standard or requirement, the City may petition through any court of general jurisdiction within Dubois County, for the issuance of a temporary or permanent injunction. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the person to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a person.

(2) **Civil Penalties**

A person who has violated, or continues to violate, any provision of this Chapter, or order issued hereunder, or any other standard or requirement shall also be liable to the City for a total maximum civil penalty and administrative fines of \$2,500.00 per violation, per day. Penalties and fines shall accrue for each day during the period of the violation.

(3) The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(4) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the person's violation, corrective actions by the person, the compliance history of the person, and any other factor as justice requires.

(5) Filing a suit for civil penalties shall not be a bar against, or a prerequisite, for taking any other action against a person.

SECTION 18. (Section 14.40.170) **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 authorized enforcement agency to seek cumulative remedies.

SECTION 19. Prior Ordinances. All ordinances and/or parts of ordinances in conflict herewith are hereby repealed.

SECTION 20. Separability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions thereunder.

SECTION 21. Effective Date. This Ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and completion of any other legal requirements, all in the manner as provided by law.

PASSED AND ADOPTED by the Common Council of the City of Jasper, Indiana, this _____ day of _____, 2008.

William J. Schmitt, Presiding Officer

ATTEST:

Juanita S. Boehm, Clerk-Treasurer

Presented by me to the Mayor of the City of Jasper, Indiana on the _____ day of _____, 2008, at the hour of ____: ____ o'clock P.M.

Juanita S. Boehm, Clerk Treasurer

This Ordinance approved and signed by me as the Mayor of the City of Jasper, Indiana, this _____ day of _____, 2008, at ____: ____ o'clock P.M.

William J. Schmitt, Mayor

ATTEST:

Juanita S. Boehm, Clerk-Treasurer

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