

TOWN OF GREENVILLE  
ORDINANCE NO. 2013-TO-061

**ORDINANCE CONCERNING THE REGULATING OF LAND  
EXCAVATION WITHIN THE TOWN OF GREENVILLE, INDIANA**

WHEREAS, the Town Council for the Town of Greenville, Indiana, in the interest of preventing land erosion and water run off, has deemed it necessary that the Town develop an Ordinance which forbids excavation on real property within the Corporate limits of the Town of Greenville without prior Greenville Town Council approval and;

WHEREAS, State of Indiana Rule 5, 327-IAC-15-5 requires a permit be obtained for any excavating of one acre or more of land. Permit shall be obtained through The Floyd County Soil and Conservation Department 2524 Corydon Pike, Suite 103 New Albany, Indiana 47150 {Phone: 812-945-9936}.

WHEREAS, the first reading of this Ordinance was completed on 12-09-2013 and a unanimous consent was not achieved, but the vote was 3 in favor and 1 opposed this will be the second and third reading of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GREENVILLE, INDIANA, AS FOLLOWS:

**Definition of Excavating for the Purpose of this Ordinance**

Excavating: 1. To make a hollow by removing the inner part; make a hole or cavity in; form into a hollow, as by digging. 2. To make {a hole, tunnel, etc.} by removing material. 3. To dig or scoop out, {earth, sand, etc.}. 4. To expose or lay bare by digging; unearth, hollow out.

**Requirements of Compliance with this Ordinance:**

1. Persons or person wishing to excavate a property of one acre or more must contact The Floyd County Soil and Conservation Department to obtain a permit for excavation from the State of Indiana. Persons or person wishing to excavate a property one acre or more shall appear before the Greenville Town Council and present a copy of the State of Indiana Permit for the area to be excavated before excavation can begin.

2. Persons or person wishing to excavate a property for less than an acre must appear before the Greenville Town Council and present a clear and precise drawing plan for the area to be excavated before excavation can begin.

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3. Plan for less than an acre shall address such topics as earth {land} erosion and water run off.
4. Plan for less than an acre shall indicate the purpose required for the excavation.
5. If property is for new construction the person or persons shall present a copy of those plans to the Greenville Town Council along with a plot plan for the location of such structure, it's dimensional location to adjoining properties, and the proposed entry and exits from adjoining Greenville streets and alleyways.

### Exempted from this Ordinance

1. Person or persons performing common yard maintenance such as planting trees, shrubs, seeding and re-seeding of grass, etc.
2. The Greenville Water Utility and streets, alleys and roadway maintenance performed by or on the behalf of the Town of Greenville.

### ENFORCEMENT:

Enforcement of this Ordinance shall be pursuant to I.C. 36-1-6-2, I.C. 36-1-6-3 or I.C. 36-1-6-4, or a successor statute if said statute is repealed.

### Fines and Penalties:

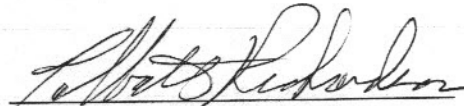
1. If failure to comply with this Ordinance will require Greenville Marshal's Department to obtain a court order to stop excavation. A fine of five hundred dollars per day will occur for each day the excavation continues after Marshal issuing the citation while obtaining a court order to stop the excavation. If levied fines are not paid within 30 days then a lien will be sought against person's property, who is the owner of the property being excavated, in accordance with I.C. 36-1-6-2 plus attorney fees and court cost.
2. Persons or person who is the owner or owners of such property shall be responsible for any repair construction work required. Repairs to be completed within 14 days upon notice to correct any damage to roadway {streets, alleyways}, earth {land} erosion and water run off caused by such excavation to the satisfaction of the Greenville Town Council. If the Town of Greenville Council deems it necessary to hire another party to perform such repairs, the owner or owners of such property shall be responsible for those costs. If levied costs are not paid within 30 days then a lien will be sought against person's property, who is the owner of the property being excavated in accordance with I.C. 36-1-6-2 plus attorney fees and court cost.

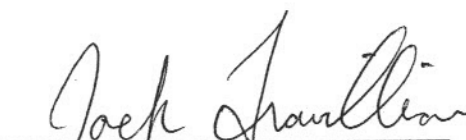
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3. The Town of Greenville may pursue any and all penalties described in I.C. 36-1-6-3 in addition to the penalties described in I.C. 36-1-6-4, or a successor statute if said statute is repealed plus attorney fees and court costs.
4. Furthermore, if the condition has not been corrected within thirty {30} days, the Town may cause to be certified to the County Auditor as a charge against the taxes due and payable to the County Treasurer in the following year together with attorney fees and court cost in accordance with IC 36-1-6-2 or successor statute, if said statute is repealed.
5. Any portion of any prior Ordinance in conflict with the provisions of this Ordinance is hereby repealed.
6. This Ordinance replaces Ordinance 2010-T-060 dated August 31st, 2010. Ordinance 2010-T-060 shall be moved to the voided Ordinance file after passage of this Ordinance.
7. The Town of Greenville Clerk Treasurer shall publish this Ordinance within 30 days in the New Albany Tribune after passage.
8. The Town of Greenville Clerk Treasurer shall attach a copy of the publication and related information to the original signed Ordinance and a PDF file shall be added to the electronic file copy of this Ordinance.
9. Any unlawful provision found in this ordinance shall not effect the remaining provision.

ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE  
19<sup>th</sup> DAY OF DECEMBER, 2013.

PRESIDENT OF THE TOWN  
COUNCIL OF GREENVILLE,  
INDIANA

  
TALBOTTE RICHARDSON,

  
JACK TRAVILLIAN,  
CLERK/TREASURER

PREPARED BY: RANDAL JOHNES

individual occupying a named position); and

(C) the written authorization is submitted to the commissioner.

(3) Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(h) Except for data determined to be confidential under 327 IAC 12 [327 IAC 12 was repealed filed Mar 9, 2000, 7:47 a.m.: 23 IR 1637. See 327 IAC 12.1.], all reports prepared in accordance with the terms of the applicable general permit rule shall be available for public inspection at the offices of the Indiana department of environmental management and the U.S. Environmental Protection Agency Regional Administrator. As required by the Federal Act, information contained in the NOI letter and effluent data shall not be considered confidential.

(i) The Indiana Environmental Management Act at IC 13-7-13-3(b) [IC 13-7 was repealed by P.L.1-1996, SECTION 99, effective July 1, 1996.] provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under the applicable general permit rule, including monitoring reports or reports of compliance or noncompliance, shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000) per violation, or by imprisonment for not more than six (6) months per violation, or by both. The Federal Act, as well as IC 13-7-13-3 [IC 13-7 was repealed by P.L.1-1996, SECTION 99, effective July 1, 1996.] and IC 35-50-3-3, provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000) per violation, or by imprisonment for not more than one hundred eighty (180) days per violation, or by both. (*Water Pollution Control Division; 327 IAC 15-4-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 21; errata filed Apr 10, 2006, 2:46 p.m.: 29 IR 2547*)

## **Rule 5. Storm Water Run-Off Associated with Construction Activity**

### **327 IAC 15-5-1 Purpose**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4

Sec. 1. The purpose of this rule is to establish requirements for storm water discharges from construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected. (*Water Pollution Control Division; 327 IAC 15-5-1; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; errata, 16 IR 898; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 833; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

### **327 IAC 15-5-2 Applicability of general permit rules**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4; IC 14-34

Sec. 2. (a) The requirements under this rule apply to all persons who:

- (1) do not obtain an individual NPDES permit under 327 IAC 15-2-6;
- (2) meet the general permit rule applicability requirements under 327 IAC 15-2-3; and
- (3) are involved in construction activity, except operations that result in the land disturbance of less than one (1) acre of total land area as determined under subsection (h) and are not part of a larger common plan of development or sale.

(b) The requirements under this rule do not apply to persons who are involved in:

- (1) agricultural land disturbing activities; or
- (2) forest harvesting activities.

(c) The requirements under this rule do not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

- (1) Landfills that have been issued a certification of closure under 329 IAC 10.
- (2) Coal mining activities permitted under IC 14-34.
- (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the department under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.
- (d) The project site owner has the following responsibilities:
  - (1) Complete a sufficient notice of intent letter.
  - (2) Ensure that a sufficient construction plan is completed and submitted in accordance with section 6 of this rule.
  - (3) Ensure compliance with this rule during:
    - (A) the construction activity; and
    - (B) implementation of the construction plan.
  - (4) Notify the department with a sufficient notice of termination letter.
  - (5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved construction plan.

(e) For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.

(f) For an individual lot where land disturbance is expected to be one (1) acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:

- (1) complete his or her own notice of intent letter; and
- (2) ensure that a sufficient construction plan is completed and submitted in accordance with section 6 of this rule.

(g) For an individual lot where the land disturbance is less than one (1) acre and the lot lies within a project site permitted under this rule, the individual lot operator shall be in accordance with the following:

- (1) Comply with:
  - (A) the provisions and requirements of the plan developed by the project site owner; and
  - (B) section 7.5 of this rule.
- (2) Does not need to submit a notice of intent letter and construction plans.

(h) Multilot project sites are regulated by this rule in accordance with the following:

(1) A determination of the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:

(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 lot disturbance on all other types of project sites, such as 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 must be calculated as the expected lot disturbance.

(ii) Where the lots are less than one (1) acre in size, the total lot must be calculated as being disturbed.

(2) For purposes of this rule, strip developments:

(A) are considered as one (1) project site; and

(B) must comply with this rule;

unless the total combined disturbance on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.

(i) Submittal of a notice of intent and construction plans is not required for construction activities associated with a single-family residential dwelling disturbing less than five (5) acres when the dwelling is not part of a larger common plan of development

or sale. Provisions in section 7(b)(1) through 7(b)(5), 7(b)(10) through 7(b)(17), 7(b)(19), and 7(b)(20) of this rule shall be complied with throughout construction activities and until the areas are permanently stabilized.

(j) The department may waive the permit requirements under this rule for construction activities that disturb less than five (5) acres where the waiver applicant determined by the commissioner certifies that:

- (1) a total maximum daily load (TMDL) for the pollutants of concern from storm water discharges associated with construction activity indicates that controls on construction site discharges are not needed to protect water quality; or
- (2) in receiving waters that do not require a TMDL study, an equivalent analysis demonstrates water quality is not threatened by storm water discharges, and it has been determined that allocations for the pollutants of concern from the construction site discharges are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety.

*(Water Pollution Control Division; 327 IAC 15-5-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 833; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)*

### **327 IAC 15-5-3 General permit rule boundary**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 13-18-4

Sec. 3. This general permit covers all lands within Indiana. *(Water Pollution Control Division; 327 IAC 15-5-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 834; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)*

### **327 IAC 15-5-4 Definitions**

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3

Affected: IC 13-11-2; IC 14-32; IC 14-34

Sec. 4. In addition to the definitions contained in IC 13-11-2, 327 IAC 1, 327 IAC 5, and 327 IAC 15-1-2, the following definitions apply throughout this rule:

- (1) "Agricultural conservation practices" means 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.
- (2) "Agricultural land disturbing activity" means 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 rule, the term does not include land disturbing activities for the construction of agricultural related facilities, such as:
  - (A) barns;
  - (B) buildings to house livestock;
  - (C) roads associated with infrastructure;
  - (D) agricultural waste lagoons and facilities;
  - (E) lakes and ponds;
  - (F) wetlands; and
  - (G) other infrastructure.
- (3) "Commissioner" refers to the commissioner of the department.
- (4) "Construction activity" means land disturbing activities and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.
- (5) "Construction plan" means 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 is a part of the

construction plan.

(6) "Construction site access" means 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.

(7) "Contractor" or "subcontractor" means an individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

(8) "Department" refers to the department of environmental management.

(9) "Developer" means:

(A) any person financially responsible for construction activity; or

(B) an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

(10) "DNR-DSC" means the division of soil conservation of the department of natural resources.

(11) "Erosion" means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

(12) "Erosion and sediment control measure" means a practice, or a combination of practices, to control erosion and resulting sedimentation.

(13) "Erosion and sediment control system" means 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.

(14) "Final stabilization" means the establishment of permanent vegetative cover or the application of a permanent nonerosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.

(15) "Grading" means the cutting and filling of the land surface to a desired slope or elevation.

(16) "Impervious surface" means surfaces, such as pavement and rooftops, that prevent the infiltration of storm water into the soil.

(17) "Individual building lot" means a single parcel of land within a multiparcel development.

(18) "Individual lot operator" means a contractor or subcontractor working on an individual lot.

(19) "Individual lot owner" means a person who has financial control of construction activities for an individual lot.

(20) "Land disturbing activity" means any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

(21) "Larger common plan of development or sale" means 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.

(22) "Measurable storm event" means a precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

(23) "MS4 area" means a land area comprising one (1) or more places that receives coverage under one (1) NPDES storm water permit regulated by 327 IAC 15-13 or 327 IAC 5-4-6(a)(4) and 327 IAC 5-4-6(a)(5).

(24) "MS4 operator" means the person responsible for development, implementation, or enforcement of the minimum control measures for a designated MS4 area regulated under 327 IAC 15-13.

(25) "Municipal separate storm sewer system" or "MS4" has the same meaning set forth at 327 IAC 15-13-5(42).

(26) "Peak discharge" means the maximum rate of flow during a storm, usually in reference to a specific design storm event.

(27) "Permanent stabilization" means the establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent nonerosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

(28) "Phasing of construction" means sequential development of smaller portions of a large project site, stabilizing each portion before beginning land disturbance on subsequent portions, to minimize exposure of disturbed land to erosion.

(29) "Project site" means the entire area on which construction activity is to be performed.

(30) "Project site owner" means the person required to submit the NOI letter under this article and required to comply with the terms of this rule, including either of the following:

(A) A developer.

(B) 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.

(31) "Sediment" means 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.

(32) "Sedimentation" means the settling and accumulation of unconsolidated sediment carried by storm water run-off.

(33) "Soil" means the unconsolidated mineral and organic material on the surface of the earth that serves as the natural medium for the growth of plants.

(34) "Soil and Water Conservation District" or "SWCD" means a political subdivision established under IC 14-32.

(35) "Storm water pollution prevention plan" means a plan developed to minimize the impact of storm water pollutants resulting from construction activities.

(36) "Storm water quality measure" means a practice, or a combination of practices, to control or minimize pollutants associated with storm water run-off.

(37) "Strip development" means a multilot project where building lots front on an existing road.

(38) "Subdivision" means any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

(39) "Temporary stabilization" means the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other nonerosive material applied at a uniform density of seventy percent (70%) across the disturbed area.

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

(41) "Trained individual" means 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 coursework that enable the individual to make judgments regarding storm water control or treatment and monitoring.

*(Water Pollution Control Division; 327 IAC 15-5-4; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 834; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2284; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)*

### **327 IAC 15-5-5 Notice of intent letter requirements**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 5. (a) The following information must be submitted by the project site owner with a complete NOI letter under this rule:

(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 commissioner and the appropriate plan reviewing agency 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 affected area that notified the public that a construction activity is to commence, that states, "(Company name, address) is submitting an NOI letter to notify the Indiana Department of Environmental Management 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). Run-off from the project site will discharge to (stream(s) receiving the discharge(s)).".

(10) As applicable, a list of all MS4 areas designated under 327 IAC 15-13 within which the project site lies.

(11) A written certification by the operator that:

(A) the storm water quality measures included in the construction plan comply with the requirements under sections 6.5, 7, and 7.5 of this rule and that the storm water pollution prevention plan complies with all applicable federal, state, and local storm water requirements;

(B) the measures required by section 7 of this rule will be implemented in accordance with the storm water pollution prevention plan;

(C) if the projected land disturbance is one (1) acre or more, the applicable soil and water conservation district or other entity designated by the department has been sent a copy of the construction plan for review;

(D) storm water quality measures beyond those specified in the storm water pollution prevention plan will be implemented during the life of the permit if necessary to comply with section 7 of this rule; and

(E) implementation of storm water quality measures will be inspected by trained individuals.

(12) The name of receiving water or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.

(13) The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).

(14) A notification from the SWCD, DNR-DSC, or other entity designated by the department as the reviewing agency indicating that the constructions plans are sufficient to comply with this rule. This requirement may be waived if the project site owner has not received notification from the reviewing agency within the time frame specified in 327 IAC 15-5-6(b)(3).

(b) Send NOI letters to:

Indiana Department of Environmental Management  
Office of Water Quality, Urban Wet Weather Section  
100 North Senate Avenue, Room N1255  
Indianapolis, Indiana 46204  
Attention: Rule 5 Storm Water Coordinator.

*(Water Pollution Control Division; 327 IAC 15-5-5; filed Aug 31, 1992, 5:00 p.m.: 16 IR 24; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 836; errata filed Feb 6, 2006, 11:15 a.m.: 29 IR 1938; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)*

### **327 IAC 15-5-6 Submittal of an NOI letter and construction plans**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 6. (a) After the project site owner has received notification from the reviewing agency that the construction plans meet the requirements of the rule or the review period outlined in subsection (b)(3) has expired, all NOI letter information required under section 5 of this rule shall be submitted to the commissioner at least forty-eight (48) hours prior to the initiation of land disturbing activities at the site. A copy of the completed NOI letter must also be submitted to all SWCDs, or other entity designated by the department, where the land disturbing activities are to occur. If the NOI letter is determined to be deficient, the project site owner must address the deficient items and submit an amended NOI letter to the commissioner at the address specified in section 5 of this rule.

(b) For a project site where the proposed land disturbance is one (1) acre or more as determined under section 2 of this rule, the following requirements must be met:

(1) A construction plan must be submitted according to the following:

(A) Prior to the initiation of any land disturbing activities.

(B) Sent to the appropriate SWCD or other entity designated by the department for:

(i) review and verification that the plan meets the requirements of the rule; or

(ii) a single coordinated review in accordance with subsection (d)(3) if:

(AA) the construction activity will occur in more than one (1) SWCD; and

(BB) the project site owner has made a request for a single coordinated review.

(2) If the construction plan required by subdivision (1) is determined to be deficient, the SWCD, DNR-DSC, or other entity designated by the department as the reviewing agency may require modifications, terms, and conditions as necessary to meet the requirements of the rule. The initiation of construction activity following notification by the reviewing agency that the plan does not meet the requirements of the rule is a violation and subject to enforcement action. If notification of a deficient plan is received after the review period outlined in subdivision (3) and following commencement of construction activities, the plans must be modified to meet the requirements of the rule and resubmitted within fourteen (14) days of receipt of the notification of deficient plans.

(3) If the project site owner does not receive notification within twenty-eight (28) days after the plan is received by the reviewing agency stating that the reviewing agency finds the plan is deficient, the project site owner may submit the NOI letter information.

(c) The following apply for a project where construction activity occurs inside a single MS4 area regulated under 327 IAC 15-13:

(1) A copy of the completed NOI letter must be submitted to the appropriate MS4 operators.

(2) The project site owner must comply with all appropriate ordinances and regulations within the MS4 area related to storm water discharges. The MS4 operator ordinance as required by 327 IAC 15-13-15(b) and 327 IAC 15-13-16(b) will be considered to have the same authority as this rule within the regulated MS4 area.

(d) For a project that will occur in more than one (1) jurisdiction, such as an SWCD or regulated MS4 area, the following must be met:

(1) Project site owners of project sites occurring in multiple MS4 areas, but not in nondesignated areas, shall submit the information required in subsection (c) to each appropriate MS4 operator.

(2) Project site owners of project sites occurring in one (1) or more MS4 areas and nondesignated areas shall submit the information required in subsections (a) through (c) to all appropriate MS4 operators, and the SWCD or other entity designated by the department.

(3) Project site owners of project sites occurring in multiple nondesignated areas, but not occurring within an MS4 area, may request a single coordinated review through the DNR-DSC office at the following address:

402 West Washington Street

Room W265

Indianapolis, Indiana 46204.

Upon acceptance of the request, the DNR-DSC will coordinate the plan review with appropriate SWCDs and other entities designated by the department. (*Water Pollution Control Division; 327 IAC 15-5-6; filed Aug 31, 1992, 5:00 p.m.: 16 IR 24; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 837; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2284; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

### **327 IAC 15-5-6.5 Requirements for construction plans**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 6.5. (a) For project sites that do not meet the criteria in subsection (b), the project site owner shall develop a set of construction plans. Storm water quality measures included in the plan must achieve the minimum project site requirements specified in section 7 of this rule. The construction plans must include the following:

(1) Project narrative and supporting documents, including the following information:

(A) An index indicating the location, in the construction plans, of all information required by this subsection.

(B) Description of the nature and purpose of the project.

- (C) Legal description of the project site. The description should be to the nearest quarter section, township, and range, and include the civil township.
  - (D) 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.
  - (E) General construction sequence of how the project site will be built, including phases of construction.
  - (F) Hydrologic Unit Code (14 Digit) available from the United States Geological Survey (USGS).
  - (G) A reduced plat or project site map showing the lot numbers, lot boundaries, and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no larger than eleven (11) inches by seventeen (17) inches for all phases or sections of the project site.
  - (H) Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.
- (2) 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.
- (3) An existing project site layout that must include the following information:
- (A) Location and name of all wetlands, lakes, and water courses on or adjacent to the project site.
  - (B) Location of all existing structures on the project site.
  - (C) One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.
  - (D) Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey, or an equivalent publication, or as determined by a soil scientist. A soil legend must be included with the soil map.
  - (E) Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site.
  - (F) Land use of all adjacent properties.
  - (G) Existing topography at a contour interval appropriate to indicate drainage patterns.
- (4) Final project site layout, including the following information:
- (A) Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas.
  - (B) One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.
  - (C) Proposed final topography at a contour interval appropriate to indicate drainage patterns.
- (5) A grading plan, including the following information:
- (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) Existing and proposed topographic information.
- (6) A drainage plan, including the following information:
- (A) An estimate of the peak discharge, based on the ten (10) year storm event, of the project site for both preconstruction and postconstruction conditions.
  - (B) Location, size, and dimensions of all storm water drainage systems, such as culverts, storm sewers, and conveyance channels.
  - (C) Locations where storm water may be directly discharged into ground water, such as abandoned wells or sinkholes. Please note if none exists.
  - (D) Locations of specific points where storm water discharge will leave the project site.
  - (E) 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.
  - (F) 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.
- (7) A storm water pollution prevention plan associated with construction activities. The plan must be designed to, at least, meet the requirements of sections 7 and 7.5 of this rule and must include the following:

- (A) Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures.
  - (B) Temporary stabilization plans and sequence of implementation.
  - (C) Permanent stabilization plans and sequence of implementation.
  - (D) Temporary and permanent stabilization plans shall include the following:
    - (i) Specifications and application rates for soil amendments and seed mixtures.
    - (ii) The type and application rate for anchored mulch.
  - (E) Construction sequence describing the relationship between implementation of storm water quality measures and stages of construction activities.
  - (F) Self-monitoring program including plan and procedures.
  - (G) 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.
  - (H) Material handling and storage associated with construction activity shall meet the spill prevention and spill response requirements in 327 IAC 2-6.1.
- (8) The postconstruction storm water pollution prevention plan. The plan must include the following information:
- (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 postconstruction 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 postconstruction storm water quality measure will be installed.
  - (E) Storm water quality measures that will remove or minimize pollutants from storm water run-off.
  - (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 postconstruction 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 postconstruction storm water quality measures.
- (b) For a single-family residential development consisting of four (4) or fewer lots or 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, the project site owner shall develop a set of construction plans containing storm water quality measures that achieve the minimum project site requirements specified in section 7 of this rule. The construction plan must include the following:
- (1) Project narrative and supporting documents, including the following information:
    - (A) An index indicating the location, in the construction plans, of all required items in this subsection.
    - (B) Description of the nature and purpose of the project.
    - (C) Legal description of the project site. The description should be to the nearest quarter section, township, and range, and include the civil township.
    - (D) 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.
    - (E) Hydrologic Unit Code (14 Digit) available from the United States Geological Survey (USGS).
    - (F) Identification of any other state or federal permits that are required for construction activities associated with the project site owner's project site.
  - (2) 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.
  - (3) A project site layout that must include the following information:

- (A) Location and name of all wetlands, lakes, and water courses on or adjacent to the project site.
  - (B) Location of all existing structures on the project site (if applicable).
  - (C) One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.
  - (D) Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey, or an equivalent publication, or as determined by a soil scientist. A soil legend must be included with the soil map.
  - (E) Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site.
  - (F) Land use of all adjacent properties.
  - (G) Existing and proposed topography at a contour interval appropriate to indicate drainage patterns.
  - (H) Location of all proposed site improvements, including roads, utilities, lot delineation and identification, and proposed structures.
- (4) A storm water pollution prevention plan associated with construction activities. The plan must be designed to, at least, meet the requirements of sections 7 and 7.5 of this rule and must include the following:
- (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) Location, size, and dimensions of all storm water drainage systems, such as culverts, storm sewers, and conveyance channels.
  - (D) Locations where storm water may be directly discharged into ground water, such as abandoned wells or sinkholes. Please note if none exist.
  - (E) Locations of specific points where storm water discharge will leave the project site.
  - (F) 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.
  - (G) Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures.
  - (H) Temporary stabilization plans and sequence of implementation of storm water quality measures.
  - (I) Temporary and permanent stabilization plans shall include the following:
    - (i) Specifications and application rates for soil amendments and seed mixtures.
    - (ii) The type and application rate for anchored mulch.
  - (J) Self-monitoring program plan and procedures.
- (c) The SWCD or the DNR-DSC representative or other designated entity may upon finding reasonable cause require modification to the construction plan 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 twenty-one (21) calendar days of a request for a modification. (*Water Pollution Control Division; 327 IAC 15-5-6.5; filed Oct 27, 2003, 10:15 a.m.: 27 IR 838; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2284; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

**327 IAC 15-5-7 General requirements for storm water quality control**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 7. (a) All storm water quality measures and erosion and sediment controls necessary to comply with this rule must be implemented in accordance with the construction plan and sufficient to satisfy subsection (b).

(b) A project site owner shall, at least, meet the following requirements:

- (1) Sediment-laden water which otherwise would flow 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 run-off 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 run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.

(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) Copy of the completed NOI letter and the NPDES permit number, where applicable.

(B) Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.

(C) Location of the construction plan if the project site does not have an on-site location to store the plan.

(7) This permit and posting of the notice under subdivision (6) does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.

(8) The storm water pollution prevention plan 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.

(9) 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 storm water pollution prevention plan and the schedule for proposed implementation.

(10) Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.

(11) Appropriate measures shall be planned and installed as part of an erosion and sediment control system.

(12) All storm water quality measures must be designed and installed under the guidance of a trained individual.

(13) Collected run-off 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.

(14) 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.

(15) Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.

(16) Unvegetated areas that are scheduled or likely to be left inactive for fifteen (15) 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 restabilized using appropriate methods to minimize the erosion potential.

(17) During the period of construction activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.

(18) A self-monitoring program that includes the following must be implemented:

(A) A trained individual shall perform a written evaluation of the project site:

(i) by the end of the next business day following each measurable storm event; and

(ii) at a minimum of one (1) time per week.

(B) The evaluation must:

(i) address the maintenance of existing storm water quality measures to ensure they are functioning properly;

- and
  - (ii) identify additional measures necessary to remain in compliance with all applicable statutes and rules.
- (C) Written evaluation reports must include:
  - (i) the name of the individual performing the evaluation;
  - (ii) the date of the evaluation;
  - (iii) problems identified at the project site; and
  - (iv) details of corrective actions recommended and completed.
- (D) All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.
- (19) 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.
- (20) Final stabilization of a project site is achieved when:
  - (A) all land disturbing activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of 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; and
  - (B) construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use or disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in clause (A).

*(Water Pollution Control Division; 327 IAC 15-5-7; filed Aug 31, 1992, 5:00 p.m.: 16 IR 24; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 840; errata filed Feb 4, 2004, 1:45 p.m.: 27 IR 2284; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)*

### **327 IAC 15-5-7.5 General requirements for individual building lots within a permitted project**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 7.5. (a) All storm water quality measures, including erosion and sediment control, necessary to comply with this rule must be implemented in accordance with the plan and sufficient to satisfy subsection (b).

(b) Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

- (1) The 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 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) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- (7) For individual residential lots, final stabilization meeting the criteria in section 7(b)(20) of this rule will be achieved when the individual lot operator:

- (A) completes final stabilization; or
- (B) has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

*(Water Pollution Control Division; 327 IAC 15-5-7.5; filed Oct 27, 2003, 10:15 a.m.: 27 IR 843; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA)*

**327 IAC 15-5-8 Project termination**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 8. (a) The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of storm water quality measures that are to remain on the project site.

(b) The project site owner shall submit a notice of termination (NOT) letter to the commissioner and a copy to the appropriate SWCD or other designated entity in accordance with the following:

(1) Except as provided in subdivision (2), the project site owner shall submit an NOT letter when the following conditions have been met:

(A) All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.

(B) All temporary erosion and sediment control measures have been removed.

The NOT letter must contain a verified statement that each of the conditions in this subdivision has been met.

(2) The project site owner may submit an NOT letter to obtain early release from compliance with this rule if the following conditions are met:

(A) The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre.

(B) 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.

(C) All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.

(D) The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.

(E) All permanent storm water quality measures have been implemented and are operational.

(c) Following acceptance of the NOT letter and written approval from the department for early release under subsection (b), the project site owner shall notify 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 section 7.5 of this rule. The remaining individual lot owners do not need to submit an NOI letter or NOT letter. The notice must contain a verified statement that each of the conditions in subsection (b)(2) have been met. The notice must also inform the individual lot owners of the requirements to:

(1) install and maintain appropriate measures to prevent sediment from leaving the individual building lot; and

(2) maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.

(d) The SWCD, DNR-DSC, other entity designated by the department or a regulated MS4 entity, or the department may inspect the project site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT letter requirements. If the inspecting entity finds that the project site owner has sufficiently filed an NOT letter, the entity shall forward notification to the department. Upon receipt of the verified NOT letter by the department and receipt of written approval from the department, the project site owner shall no longer be responsible for compliance with this rule.

(e) After a verified NOT letter has been submitted for a project site, maintenance of the remaining storm water quality measures shall be the responsibility of the individual lot owner or occupier of the property. (*Water Pollution Control Division; 327 IAC 15-5-8; filed Aug 31, 1992, 5:00 p.m.: 16 IR 25; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 843; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

**327 IAC 15-5-9 Standard conditions**

Authority: IC 13-1-3-4; IC 13-1-3-7; IC 13-7-7; IC 13-7-10-1

Affected: IC 13-1-3; IC 13-7



Sec. 9. The standard conditions for NPDES general permit rules under 327 IAC 15-4 shall apply to this rule. (*Water Pollution Control Division; 327 IAC 15-5-9; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

**327 IAC 15-5-10 Inspection and enforcement**

Authority: IC 13-13-5-2; IC 13-15-1-2; IC 13-15-2-1; IC 13-18

Affected: IC 13-14-10; IC 13-15-7; IC 13-18-3; IC 13-18-4; IC 13-30

Sec. 10. (a) The department or its designated representative may inspect any project site involved in construction activities regulated by this rule at reasonable times. The department or its designated representatives may make recommendations to the project site owner or their representative to install appropriate measures beyond those specified in the storm water pollution prevention plan to achieve compliance.

(b) All persons engaging in construction activities on a project site shall be responsible for complying with the storm water pollution prevention plan and the provisions of this rule.

(c) The department shall investigate potential violations of this rule to determine which person may be responsible for the violation. The department 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, storm water pollution prevention plans, notices of intent, and other information related to the specific facts and circumstances of the potential violation. Any person causing or contributing to a violation of any provisions of this rule shall be subject to enforcement and penalty under IC 13-14-10, IC 13-15-7, and IC 13-30.

(d) If remaining storm water quality measures are not properly maintained by the person occupying or owning the property, the department may pursue enforcement against that person for correction of deficiencies under 327 IAC 15-1-4.

(e) Construction plans and supporting documentation associated with the quality assurance plan must be made available to the department or its designated representatives within forty-eight (48) hours of such a request. (*Water Pollution Control Division; 327 IAC 15-5-10; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; filed Mar 23, 2000, 4:15 p.m.: 23 IR 1912; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; filed Oct 27, 2003, 10:15 a.m.: 27 IR 844; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

**327 IAC 15-5-11 Notification of completion (Repealed)**

Sec. 11. (*Repealed by Water Pollution Control Division; filed Oct 27, 2003, 10:15 a.m.: 27 IR 863*)

**327 IAC 15-5-12 Duration of coverage**

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 12. (a) A permit issued under this rule is granted by the commissioner for a period of five (5) years from the date coverage commences.

(b) Once the five (5) year permit term duration is reached, a general permit issued under this rule will be considered expired, and, as necessary for construction activity continuation, a new NOI letter would need to be submitted in accordance with subsection (c).

(c) To obtain renewal of coverage under this rule, the information required under sections 5 and 6 of this rule must be submitted to the commissioner ninety (90) days prior to the termination of coverage under this NPDES general permit rule, unless the commissioner determines that a later date is acceptable. Coverage under renewal NOI letters will begin on the date of expiration from the previous five (5) year permit term. (*Water Pollution Control Division; 327 IAC 15-5-12; filed Oct 27, 2003, 10:15 a.m.: 27 IR 844; readopted filed Nov 21, 2007, 1:16 p.m.: 20071219-IR-327070553BFA; readopted filed Jul 29, 2013, 9:21 a.m.: 20130828-IR-327130176BFA*)

## TOWN OF GREENVILLE

ORDINANCE NO. 2013-TO-061

ORDINANCE CONCERNING THE REGULATING OF LAND  
EXCAVATION WITHIN THE TOWN OF GREENVILLE, INDIANA

WHEREAS, the Town Council for the Town of Greenville, Indiana, in the interest of preventing land erosion and water run off, has deemed it necessary that the Town develop an Ordinance which forbids excavation on real property within the Corporate limits of the Town of Greenville without prior Greenville Town Council approval and;

WHEREAS, State of Indiana Rule 5, 327-IAC-15-5 requires a permit be obtained for any excavating of one acre or more of land. Permit shall be obtained through The Floyd County Soil and Conservation Department 2524 Corydon Pike, Suite 103 New Albany, Indiana 47150 (Phone: 812-945-9936).

WHEREAS, the first reading of this Ordinance was completed on 12-09-2013 and a unanimous consent was not achieved, but the vote was 3 in favor and 1 opposed this will be the second and third reading of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GREENVILLE, INDIANA, AS FOLLOWS:

**Definition of Excavating for the Purpose of this Ordinance**

Excavating: 1. To make a hollow by removing the inner part; make a hole or cavity in, form into a hollow, as by digging. 2. To make (a hole, tunnel, etc.) by removing material. 3. To dig or scoop out, (earth, sand, etc.). 4. To expose or lay bare by digging; unearth; hollow out.

**Requirements of Compliance with this Ordinance:**

1. Persons or person wishing to excavate a property of one acre or more must contact The Floyd County Soil and Conservation Department to obtain a permit for excavation from the State of Indiana. Persons or person wishing to excavate a property one acre or more shall appear before the Greenville Town Council and present a copy of the State of Indiana Permit for the area to be excavated before excavation can begin.

2. Persons or person wishing to excavate a property for less than an acre must appear before the Greenville Town Council and present a clear and precise drawing plan for the area to be excavated before excavation can begin.

3. Plan for less than an acre shall address such topics as earth (land) erosion and water run off.

4. Plan for less than an acre shall indicate the purpose required for the excavation.

5. If property is for new construction the person or persons shall present a copy of those plans to the Greenville Town Council along with a plot plan for the location of such structure, its dimensional location to adjoining properties, and the proposed entry and exits from adjoining Greenville streets and alleyways.

**Exempted from this Ordinance**

1. Person or persons performing common yard maintenance such as planting trees, shrubs, seeding and re-seeding of grass, etc.

2. The Greenville Water Utility and streets, alleys and roadway maintenance performed by or on the behalf of the Town of Greenville.

**ENFORCEMENT:**

Enforcement of this Ordinance shall be pursuant to I.C. 36-1-6-2, I.C. 36-1-6-3 or I.C. 36-1-6-4, or a successor statute if said statute is repealed.

**Fines and Penalties:**

1. If failure to comply with this Ordinance will require Greenville Marshals Department to obtain a court order to stop excavation. A fine of five hundred dollars per day will occur for each day the excavation continues after Marshal issuing the citation while obtaining a court order to stop the excavation. If levied fines are not paid within 30 days then a lien will be sought against persons property, who is the owner of the property being excavated, in accordance with I.C. 36-1-6-2 plus attorney fees and court cost.

2. Persons or person who is the owner or owners of such property shall be responsible for any repair construction work required. Repairs to be completed within 14 days upon notice to correct any damage to roadway (streets, alleyways), earth (land) erosion and water run off caused by such excavation to the satisfaction of the Greenville Town Council. If the Town of Greenville Council deems it necessary to hire another party to perform such repairs, the owner or owners of such property shall be responsible for those costs. If levied costs are not paid within 30 days then a lien will be sought against persons property, who is the owner of the property being excavated in accordance with I.C. 36-1-6-2 plus attorney fees and court cost.

3. The Town of Greenville may pursue any and all penalties described in I.C. 36-1-6-3 in addition to the penalties described in I.C. 36-1-6-4, or a successor statute if said statute is repealed plus attorney fees and court costs.

4. Furthermore, if the condition has not been corrected within thirty (30) days, the Town may cause to be certified to the County Auditor as a charge against the taxes due and payable to the County Treasurer in the following year together with attorney fees and court cost in accordance with IC 36-1-6-2 or successor statute, if said statute is repealed.

5. Any portion of any prior Ordinance in conflict with the provisions of this Ordinance is hereby repealed.

6. This Ordinance replaces Ordinance 2010-T-060 dated August 31st, 2010. Ordinance 2010-T-060 shall be moved to the voided Ordinance file after passage of this Ordinance.

7. The Town of Greenville Clerk Treasurer shall publish this Ordinance within 30 days in the New Albany Tribune after passage.

8. The Town of Greenville Clerk Treasurer shall attach a copy of the publication and related information to the original signed Ordinance and a PDF file shall be added to the electronic file copy of this Ordinance.

9. Any unlawful provision found in this ordinance shall not effect the remaining provision.

ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON THE 19TH DAY OF DECEMBER, 2013. PRESIDENT OF THE TOWN COUNCIL OF GREENVILLE, INDIANA: TALBOTTE RICHARDSON, PREPARED BY: RANDAL JOHNS, JACK TRAVILLIAN, CLERK/TREASURER

IC 36-1-6 Chapter 6. Enforcement of Ordinances

IC 36-1-6-1 Application of chapter Sec. 1. This chapter applies to all municipal corporations having the power to adopt ordinances. As added by Acts 1980, P.L. 211, SEC.1.

IC 36-1-6-2 Action to bring compliance with ordinance conditions; expense as lien against property; enforcement of delinquent fees and penalties

Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, employees or contractors of a municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. Continuous enforcement orders (as defined in IC 36-7-9-2) can be enforced and liens may be assessed without the need for additional notice. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) ten thousand dollars (\$10,000) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) twenty thousand dollars (\$20,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of the county auditor; and

(C) the amount of the delinquent fees and the penalty; or (2) an installment for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller, upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

As added by Acts 1980, P.L. 211, SEC.1 Amended by P.L. 50-2002, SEC.1; P.L. 144-2003, SEC.1; P.L. 177-2003, SEC.2; P.L. 131-2005, SEC.5; P.L. 88-2006, SEC.7; P.L. 194-2007, SEC.8; P.L. 88-2009, SEC. 5.

**IC 36-1-6-3 Proceeding to enforce ordinance; law applicable**

Sec. 3. (a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:

(1) an admission of violation before the violations clerk under IC 33-36; or

(2) administrative enforcement under section 9 of this chapter.

(b) Except as provided in subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.

(c) An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5.

As added by Acts 1980, P.L. 211, SEC.1 Amended by Acts 1981, P.L. 108, SEC.39; P.L. 177-1988, SEC.8; P.L. 130-1991, SEC.35; P.L. 1-1998, SEC.202; P.L. 98-2004, SEC.159.

**IC 36-1-6-4 Civil action by municipal corporation; action by court**

Sec. 4. (a) A municipal corporation may bring a civil action as provided in IC 34-28-5-1 if a person:

(1) violates an ordinance regulating or prohibiting a condition or use of property; or

(2) engages in conduct without a license or permit if an ordinance requires a license or permit to engage in the conduct.

(b) A court may take any appropriate action in a proceeding under this section, including any of the following actions:

(1) Issuing an injunction.

(2) Entering a judgment.

(3) Issuing a continuous enforcement order (as defined in IC 36-7-9-2).

(4) Ordering the suspension or revocation of a license.

(5) Ordering an inspection.

(6) Ordering a property vacated.

(7) Ordering a structure demolished.

(8) Imposing a penalty not to exceed an amount set forth in IC 36-1-3-8(a)

(10).

(9) Imposing court costs and fees in accordance with IC 33-37-4-2 and IC 33-37-5.

(10) Ordering a defendant to take appropriate action to bring a property into compliance with an ordinance within a specified time.

(11) Ordering a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

As added by Acts 1980, P.L. 211, SEC.1 Amended by P.L. 194-2007, SEC. 9; P.L. 88-2009, SEC. 6. hspaxip