



Introduction:

The construction site inspection and enforcement program is designed to meet the USEPA Rules and Regulations promulgated in the Federal Register on December 8, 1999 (64 FR 68722), regarding the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II permit program. The NPDES MS4 Phase II program addresses construction runoff control and requires inspection of these controls by a trained individual as laid out in 327 IAC 15-5-7(18). This ordinance provides construction site inspection and enforcement and outlines a program consistent with the *Construction Site Runoff Control Ordinance (2004-OR-56)*.

[HND1]

- A. Consistency with *Construction Site Runoff Control Ordinance (2004-OR-56)*

This *Qualified Professional Certification Ordinance* codifies the requirements for trained individuals and Qualified Professionals contained in 2004-OR-56. Changes to either document should be reflected in the other to avoid conflicts that may limit the effectiveness of the ordinance or the enforcement program.

The *Construction Site Runoff Control Ordinance* requires the following inspections.

1. Self-inspections by a Qualified Professional.
2. Oversight inspections performed by City of Jeffersonville or its representative. The oversight inspections include:
 - a. Approval of sediment controls implemented in accordance with a *Perimeter/Outfall Protection Permit*.
 - b. Periodic unscheduled inspections to verify compliance with a *Storm Water Quality Management Permit*.
 - c. Final inspection closing out permit holder responsibilities *Storm Water Quality Management Permit*.

Under the *Construction Site Runoff Control Ordinance*, the *Storm Water Quality Management Permit* holder is required to have frequent inspections performed by a Qualified Professional and to perform maintenance accordingly, as required by 327 IAC 15-5. However, qualification and training of the Qualified Professional is not specified. This ordinance specifies the Qualified Professional definition that City of Jeffersonville can use to verify the inspections and resulting maintenance are being performed adequately.

This ordinance includes the following issues:

- **Section 1 – Title, Purpose and General Provisions**
This section provides the background and basis for the requirements.
- **Section 2 – Qualified Professionals for Construction Site Inspections**
This section provides details about the registration and certification of Qualified Professionals. This section requires training and the completion of a written exam for certification unless the applicant can demonstrate specialized knowledge of erosion control measures as approved by the City. For example, an individual who is recognized as a Certified Professional by the International Erosion Control Association, a more stringent certification program than that required by the City, would potentially be exempt from additional training.

Additionally this section delineates the responsibilities of the Qualified Professional to inspect permitted sites and work with City of Jeffersonville or its designated inspection agent to ensure proper maintenance of perimeter controls and other BMPs on the site.

- **Section 3 – Enforcement**
This section provides the authority and mechanism to enforce the provisions of this ordinance. It is important that the City have a means to enforce the ordinance to provide stability and incentive for compliance.
- **Section 4 – Severability**
This section states that if one section is determined to be invalid then the remainder is still valid. Furthermore, if there is another regulatory mechanism addressing the same issue then the more restrictive shall apply.

Section 1 – Title, Purpose and General Provisions

Section 1.1 – Title

This article shall be known as the “Qualified Professional Certification Ordinance” of City of Jeffersonville, Indiana and may be so cited.

Section 1.2 – Jurisdiction

1.2.1 The Qualified Professional Certification Ordinance shall provide certification requirements for site inspectors for all properties within the jurisdictional boundaries of City of Jeffersonville, Indiana.

1.2.2 There are two scenarios that require construction site inspection within City of Jeffersonville’s municipal separate storm sewer (MS4) area:

1.2.2.1 **For projects located exclusively within City of Jeffersonville’s MS4 area** (jurisdictional boundaries), all project site owners shall retain the services of a Qualified Professional for site inspections as presented in this ordinance.

1.2.2.2 **For projects located only partially inside City of Jeffersonville’s MS4 area**, the project site owner must comply with the requirements of this ordinance and may also be required to comply with 327 IAC 15-5 (Rule 5) or another MS4 community’s construction site runoff control and/or qualified professional inspection ordinance. The portions of such projects located within City of Jeffersonville must meet the requirements of this ordinance, at a minimum.

Section 1.3 – Demonstration of Need

1.3.1 Whereas, a self-monitoring program for erosion and sedimentation control is required by state regulation (327 IAC 15-5-7(18)) for construction disturbing greater than one (1) acre of land.

1.3.2 Whereas, a trained individual is required to perform written evaluations of the construction site.

1.3.3 Whereas, requirements for training should be codified in order to make other laws concerning construction (2004-OR-56) enforceable.

Section 1.4 – Objectives

1.4.1 To clarify the requirements for a trained individual as described in 327 IAC 15-5 (Rule 5), and the *Construction Site Runoff Control Ordinance (2004-OR-56)*.

1.4.2 To comply with state and federal stormwater regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments. The objectives of these regulations include:

1.4.2.1 Managing the quality of water discharged to the municipal separate storm sewer system by controlling the contribution of pollutants associated with residential, commercial and industrial activity.

1.4.2.2 Controlling stormwater pollution caused by the suspension and transport of soils and other sediments.

1.4.2.3 Minimizing the impacts of new development and/or areas of significant redevelopment on water quality.

1.4.3 To minimize damage to public facilities and utilities, such as water and gas mains, telephone and sewer lines, streets, bridges and culverts.

1.4.4 To control the discharge of sediment and construction site materials into the stormwater system.

Section 1.5 – Definitions

Municipal Separate Storm Sewer System (MS4) means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(A) owned or operated by a:

- (i) federal, state, city, town, City, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or
 - (ii) privately owned storm water utility, hospital, university, or college having jurisdiction over storm water that discharges into waters of the state;
- (B) designed or used for collecting or conveying storm water;
 - (C) not a combined sewer; and
 - (D) not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

Perimeter/Outfall Protection Permit is a legal document that allows the permit holder to break ground or disturb soil in order to install sediment control practices at the hydrologic perimeter / outfall(s) of a construction site. This document does not give permission to the permit holder to break ground or disturb soil on an entire construction site, as is granted through the issuance of a Stormwater Quality Management Permit.

Person means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, town, County or other political subdivision of the State, any interstate body or any other legal entity.

Qualified Professional means an individual who is trained and experienced in storm water treatment techniques and related fields as may be demonstrated by professional certification or completion of coursework that enable the individual to make sound, professional judgments regarding storm water control, treatment and monitoring, pollutant fate and transport, and drainage planning.

Stormwater Quality Management Permit: is a legal document that allows the permit holder to break ground or disturb soil on an entire construction site within the provisions of a Grading Plan and a Stormwater Pollution Prevention Plan. The permit addresses erosion prevention, sediment control

and non-sediment pollution prevention activities. The plans for this permit and the Perimeter/Outfall Protection Permit are approved simultaneously. However, the Stormwater Quality Management Permit is only issued after the provisions of the Perimeter/Outfall Protection Permit have been implemented, inspected and accepted. Approval of plans for a Stormwater Quality Management Permit does not constitute issuance of the permit.

Section 2 – Qualified Professionals for Construction Site Inspections

2.1 Qualified Professional Inspections

2.1.1 A Stormwater Quality Management Permit holder is required to utilize a Qualified Professional to perform inspections and direct and/or supervise maintenance activities to ensure that the provisions of the Perimeter/Outfall Protection Permit and the Stormwater Quality Management Permit are being implemented properly.

2.2 Qualified Professional Registration

2.2.1 All Qualified Professionals performing inspections or overseeing maintenance activities under the Construction Site Runoff Control Ordinance must be registered with City of Jeffersonville and certified prior to execution of those actions. All applicants must file an application with City of Jeffersonville. Applicants must demonstrate knowledge of 1.) construction practices, 2.) operational standards, 3.) cause and failure indicators and 4.) maintenance measures used to prevent and correct failures.

2.2.2 Qualified Professional applicants may be required to pay a registration fee.

2.3 Qualified Professional Certification

2.3.1 All Qualified Professional applicants are required to satisfactorily complete a training course approved by City of Jeffersonville unless exempted by the City.

2.3.1.1 Exemption may be provided to those individuals that can demonstrate other specialized certifications or registration that focuses on erosion prevention, sediment control and other pollution prevention practices. Exempted certifications include:

2.3.1.1.1 Certified Professional in Erosion and Sediment Control (CPESC) by the International Erosion Control Association (IECA).

2.3.1.1.2 Certified Professional in Stormwater Quality (CPSWQ) by the International Erosion Control Association (IECA).

2.3.1.1.3 Any other specialized certification or registration deemed acceptable by City of Jeffersonville.

2.3.1.2 Exemption shall not be applied to individuals solely on the basis of Professional Engineer or Surveyor licensure/registration.

2.3.2 All Qualified Professional applicants are required to successfully pass a written exam unless exempted by the City.

2.3.2.1 The exam will cover construction practices, operational standards, and causes and indicators of stormwater quality management system failures and corrective actions as approved by City of Jeffersonville.

2.3.2.2 Exemption may be provided to those individuals that can demonstrate other specialized certifications or registration that focuses on erosion prevention, sediment control and other pollution prevention practices as stated above.

2.3.2.3 Exemption shall not be applied to individuals solely on the basis of Professional Engineer or Surveyor licensure/registration.

2.3.3 All Qualified Professional applicants are required to be re-certified every five (5) years.

2.3.3.1 Recertification requirements will be fulfilled by meeting conditions outlined above for initial certification.

2.4 Responsibilities of Qualified Professional

2.4.1 Sign the Notice of Intent (NOI) letter as required by 2004-OR-56.

2.4.2 Inspect control measures as required by 2004-OR-56.

2.4.3 Complete self-inspection form.

2.4.4 Discuss findings and results of oversight inspections performed by City of Jeffersonville or its designated agents with the agent. Findings may include:

2.4.4.1 Recommendations to avoid future erosion prevention, sediment control or pollution prevention problems.

2.4.4.2 Deficiencies or violations in the Perimeter Control Plan or Stormwater Pollution Prevention Plan, actions to address these problems, and schedule for implementation of action plan.

2.4.4.3 Administrative actions to be issued and followed.

2.4.4.4 Schedule for any follow-up (compliance confirmation) site visits.

2.5 Responsibilities of City of Jeffersonville

2.5.1 Administer and enforce this ordinance.

2.5.2 Advertise training and exams sponsored by City of Jeffersonville two (2) times per year.

2.5.3 Other applicable duties outlined in 2004-OR-56 Section 5.5.

2.6 Fees

2.6.1 City of Jeffersonville requires payment of a fee of \$250 per Qualified Professional to cover expenses, including but not limited to overhead, labor, storage, training, etc., associated with the certification, training and inspection process.

2.6.2 Fees shall be paid prior to a certification training course and/or exam.

Section 3 – Enforcement

3.1 City of Jeffersonville or its designated representative will enforce this Ordinance.

3.2 City of Jeffersonville may de-certify any Qualified Professional under the terms outlined in 2004-OR-56 Section 5.4.7.

3.3 A civil penalty of not more than \$2,500.00 may be assessed for violation of this article.

3.4 City of Jeffersonville may institute appropriate actions against other persons in response to violations of this ordinance as described in 2004-OR-56 Section 6.

Section 4 – Severability

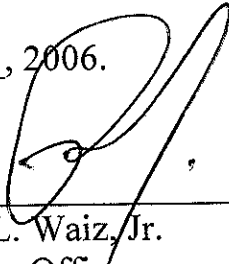
4.1 Should any article, section, subsection, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

City of Jeffersonville, Indiana
Qualified Professional Certification Ordinance

4.2 If any provisions of this Ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

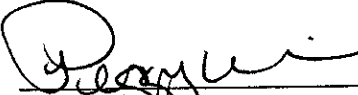
This Ordinance shall be in full force and effect from and after its passage and approval.

Passed this 1st day of May, 2006.



Robert L. Waiz, Jr.
Presiding Officer

ATTEST:



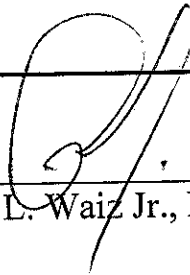
Peggy Wilder
Clerk-Treasurer

Presented by me as Clerk and Treasurer to the Mayor of said City of Jeffersonville this 3rd day of MAY, 2006.

Peggy Wilder
Clerk-Treasurer

This Ordinance approved and signed by me this 4th day of May, 2006.

City of Jeffersonville, Indiana
Qualified Professional Certification Ordinance



Robert L. Waiz Jr., Mayor

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