

**ORDINANCE 2010- OR- 53**

**BEFORE THE COMMON COUNCIL FOR THE CITY OF JEFFERSONVILLE,  
INDIANA**

**AMENDMENT TO 2004-OR- 56  
CONSTRUCTION SITE RUNOFF CONTROL ORDINANCE**

**Whereas**, the Federal Clean Water Act created a program with the purpose of regulating stormwater discharges from, among other things, municipal separate storm sewer systems, construction activities and industrial activities.

**Whereas**, in July, 2003 the Indiana Water Pollution Control Board adopted 327 IAC 15-13 (Storm Water Run-Off Associated with Municipal Separate Storm Sewer System Conveyances) to require municipalities to address and regulate stormwater runoff from construction activities.

**Whereas**, to be in compliance with 327 IAC 15-13 municipalities are required to develop a storm water quality management plan addressing construction site activities, including the adoption of an ordinance or other regulatory mechanism for construction site erosion control.

**Whereas**, the City of Jeffersonville Adopted 2004-OR-56 previously to comply with said administrative code.

**Whereas**, from time to time, the Indiana Department of Environmental Management (IDEM) is required to audit such plans and ordinances and submit reports as to what amendments and plan modification are necessary

**Whereas**, the Common Council is the municipal authority for the City of Jeffersonville to pass such ordinances.

**Whereas**, the following is presented as a amendment to 2004-OR-56 so as to comply with Federal and State law.

**CONSTRUCTION SITE RUNOFF CONTROL ORDINANCE**

**Section 1 Title, Purpose and General Provisions**

**Section 1.1 Title**

This article shall be known as the "Construction Site Runoff Control Ordinance" of Jeffersonville, Indiana and may be so cited.

**Section 1.2 Jurisdiction**

1.2.1 The Construction Site Runoff Control Ordinance shall govern all properties within the jurisdictional boundaries of Jeffersonville, Indiana.

1.2.2 There are two scenarios for permit application and processing procedures as described by the following discussion:

1.2.2.1 **For projects located within the City of Jeffersonville's MS4 area**, the project site owner shall submit an application for a stormwater management permit to the City of Jeffersonville. The application will include the information specified in Sections 3 and 4 of this ordinance. Four copies of each application must be submitted to the City of Jeffersonville. Additionally, the City of Jeffersonville may require digital submittal of construction plans in an approved format. One copy of the application will be forwarded to the Soil and Water Conservation District (SWCD) for its review and comment. The remaining three copies will be reviewed by departments within the City of Jeffersonville. Once all comments have been compiled from the departments and the SWCD, the City of Jeffersonville will place the project on the agenda of the next scheduled meeting of the Plan Commission. The City of Jeffersonville will furnish the applicant with a complete list of comments and objections to the plans and supporting documentation submitted by the applicant, at least 10 days prior to the scheduled meeting. Within 10 days after the meeting, the City of Jeffersonville will either issue a permit, or request modification to the construction plans. The project site owner must notify the City of Jeffersonville and the IDEM within 48 hours prior to the commencement of construction activities via the submittal of an updated NOI. Upon completion of construction activities, stabilization of the project site and removal of all temporary erosion protection and sediment control measures, the applicant may submit a Notice of Termination (NOT) to the City of Jeffersonville. The City of Jeffersonville, or its designated representative, shall inspect the project site to verify that the requirements of the NOT have been met. Once the applicant receives a verified copy of the NOT, the applicant must forward a copy of the verified NOT to the IDEM.

1.2.2.2 **For projects located only partially inside the 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 control ordinance. Such projects must meet the requirements of this ordinance, at a minimum.

1.2.3 The following development activities are exempt from the provisions of this ordinance.

1.2.3.1 Agricultural land management activities.

1.2.3.2 Additions or modifications to existing detached single-family dwellings

1.2.3.3 This exemption applies only to permitting procedures and does not apply to any discharge of sediment or other form of water pollution that may leave

a small site. These discharges may be defined as illicit discharges.

### **Section 1.3 Demonstration of Need**

1.3.1 Whereas, uncontrolled stormwater drainage/discharge may have a significant adverse impact on the health, safety and welfare of the citizens of Jeffersonville, Indiana. More specifically, surface water runoff can carry pollutants and sediment pollution into receiving waters. The potential impacts include:

1.3.1.1 changing natural ecosystems through the destruction of habitat and the loss of plant and animal life.

1.3.1.2 posing significant health risks through an increase in bacteria and toxic materials.

1.3.1.3 accelerating eutrophication of receiving waters by introducing excessive nutrients.

1.3.1.4 increasing metal deposits creating toxicity for aquatic life.

1.3.1.5 reducing oxygen levels because of oil, grease and organic matter.

1.3.1.6 affecting animal and plant life, adversely, due to changing temperatures of receiving waters.

1.3.1.7 accumulation of excess sediment and/or debris that limits the function of flood control infrastructure.

1.3.2 Whereas, adverse water quantity and quality consequences described above may result in substantial economic losses. Potential losses include, but are not limited to, increased wastewater treatment costs, diminished property values, as well as state and federal fines associated with water quality violations.

1.3.3 Whereas, every parcel of property, both private and public, either uses or benefits from the City of Jeffersonville's storm water system.

1.3.4 Whereas, current and anticipated growth will contribute to and increase the need for an effective storm water system.

### **Section 1.4 Objectives**

1.4.1 Protection of the short-term and long-term public health, safety, general welfare. This objective will be achieved by:

1.4.1.1 providing for regulation and management of Jeffersonville's storm water system, including public and private facilities in Jeffersonville's service area.

1.4.1.2 protecting, and preserving water quality and fish and wildlife habitat within Jeffersonville and in downstream receiving waters.

1.4.1.3 protecting those downstream from water quality impairment.

1.4.2 Compliance with state and federal stormwater regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments through 2001. The objectives of these regulations include:

1.4.2.1 managing the quality of water discharged to the municipal stormwater 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 protecting or enhancing stormwater quality to a level of "designated use" and minimize the impacts from new development and/or areas of significant redevelopment.

1.4.3 To help maintain a stable tax base by providing for the sound use and development of flood-prone area in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural stormwater resources.

1.4.4 Minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets and bridges.

1.4.5 Ensure the use of the public and private stormwater management system that will not result in excessive maintenance costs.

1.4.6 Encourage the use of natural and aesthetically pleasing designs that maximize preservation of natural areas.

1.4.7 Control the discharge of sediment and construction site materials into the stormwater system.

1.4.8 Guide the construction of stormwater management facilities by developing comprehensive master plans to address stormwater quantity and quality.

1.4.9 Encourage preservation of floodplains, floodways and open spaces to protect and

benefit the community's quality of life and natural resources.

## **Section 1.5 Definitions**

***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 *Storm water 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, county or other political subdivision of the State, any interstate body or any other legal entity.

***Storm water 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 *Storm water 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 *Storm water Quality Management Permit* does not constitute issuance of the permit.

***Qualified Professional*** is a person who has been certified by Jeffersonville to be qualified to inspect stormwater quality management activities and oversee maintenance activities.

## **Section 2 Authority and Right of Entry**

2.1 Designated representatives from Jeffersonville shall have the right-of-entry on or upon the property of any person subject to this ordinance and any permit/document issued hereunder. The Jeffersonville representatives shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this ordinance.

2.2 Where a property, site or facility has security measures in force which require proper identification and clearance before entry into its premises, the Person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the designated Jeffersonville staff will be permitted to enter without delay for the purposes of performing specific responsibilities.

2.3 Designated Jeffersonville staff shall have the right to set up on a Person's property such devices necessary to conduct sampling and/or metering of the Person's

stormwater operations or discharges.

2.4 Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the Person at the written or verbal request of Jeffersonville staff. The costs of clearing such access shall be borne by the owner/operator.

2.5 The Jeffersonville Engineer or designee may inspect the facilities of any Person in order to ensure compliance with this ordinance. Such inspection shall be made with the consent of the owner, manager, or signatory official. If such consent is refused, denied or not promptly addressed, Jeffersonville staff may seek issuance of an administrative search warrant.

2.6 The City of Jeffersonville has the right to determine and impose inspection schedules necessary to enforce the provisions of this article. Inspections may include, but are not limited to:

2.6.1 an initial inspection prior to stormwater management plan approval.

2.6.2 an inspection prior to burial of any underground drainage structure.

2.6.3 inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system.

2.6.4 inspections to verify that action plans identified in previous site visits were successfully implemented.

2.6.5 a final inspection when all work, including installation of storm management facilities, has been completed.

### **Section 3 Perimeter/Outfall Protection Permit**

3.1 A *Perimeter/Outfall Protection Permit* must be issued prior to breaking ground or disturbing soil in order to install sediment control practices at the hydrologic perimeter / outfall(s) of a construction site. The permit does not give permission to the permit holder to break ground or disturb soil on the entire construction site, as is granted through the approval and issuance of a *Storm water Quality Management Permit*.

3.2 A *Perimeter/Outfall Protection Permit* is a predecessor to a *Storm water Quality Management Permit*. While plans for both permits are approved simultaneously, the provisions of a *Perimeter/Outfall Protection Permit* must be implemented, inspected and accepted by Jeffersonville prior to issuance of a *Storm water Quality Management Permit*.

3.3 A *Perimeter/Outfall Protection Permit* may only be issued after the review and acceptance of a Perimeter Control Plan.

3.4 Securing the perimeter prior to any land disturbance will decrease sedimentation off-site once construction has begun. Perimeter protection shall focus on downstream points and outfall areas and does not necessitate protection of the entire site boundary. Efforts shall be focused on those areas where water flow is most likely to exit the project site.

3.5 Clearing, except that necessary to establish sediment control devices shall not begin until all sediment control devices have been installed and have been stabilized. Sediment control devices prevent eroded soil from leaving the project site through the site perimeter or outfalls.

3.6 Contractors shall install sediment control measures and regularly inspect and maintain the facilities throughout construction.

3.7 Compliance with this ordinance requires that a grading plan be developed and submitted, a grading permit obtained, and a perimeter control plan be implemented before any clearing or stripping.

### 3.8 Perimeter Control Plan

3.8.1 The Perimeter Control Plan shall include measures to prevent sediment from leaving the site during initial disturbance activities and prior to temporary or permanent erosion prevention and/or sediment control practices.

3.8.2 The Perimeter Control Plan shall address downstream outfall points, while the Grading Plan defines site-wide erosion prevention and sediment control measures.

3.8.3 The Perimeter Control Plan shall address prevention of sediment deposition on properties adjacent to the project site. Utilizing well-vegetated buffer strips along lower perimeters, sediment barriers, filters, diversion berms, sediment basins or other means accepted by Jeffersonville may all be employed or combined to adequately protect adjacent properties.

3.8.4 Selection of sediment control measures shall consider the type of flow, site terrain, soil type, and other relevant factors. Buffer strips may only be utilized for sheet flow and must be at least, but not limited to, twenty-five (25) feet in width. If ineffective, a single sediment control device shall be supplemented with additional perimeter controls.

3.8.5 The Perimeter Control Plan shall address stabilizing construction

entrances/exits to reduce the amount of sediment transported onto nearby roadways, and potentially into waterways. When crossing into a public right-of-way, alley, sidewalk, or parking lot, traffic shall first pass over a stabilized stone pad. This pad shall be at least six (6) inches thick, one-hundred (100) feet long, and contain two (2) to three (3)-inch crushed coarse graded stone. If operating under seasonally wet conditions and/or soft soils, filter fabric shall underlie the stabilized stone pad.

3.8.6 The Perimeter Control Plan shall address protection of outlets such as pipes, drains, culverts, conduits or channels by significantly minimizing erosion and sedimentation by reducing the velocity of flows from the project site. The placement of rock, grouted rip-rap, or concrete rubble at the outlet of a pipe prevents scour of the soil around the culvert mouth caused by the high pipe flow velocities. The device dissipates flow energy to produce non-erosive velocities.

### 3.9 Acceptance

3.9.1 Site inspection and approval by Jeffersonville must be received before any land disturbance or grading may proceed.

3.9.2 Jeffersonville shall make inspections of the site prior to the acceptance of the perimeter protection plan. Inspection will be performed within seven (7) days after the submittal of the plan and installation of the perimeter protection devices but before any disturbance or clearing has been performed. The inspector shall either approve the portion of work completed or shall notify the permittee wherein the work fails to comply with the perimeter protection plan as approved.

3.9.3 Inspection of perimeter protection BMPs shall consist of a visual check-list for each type of BMP, to ensure that each was designed and installed according to site specific conditions.

3.9.4 Acceptance of the perimeter control plan and inspection of the appropriate BMPs shall compensate for and address any seasonal variations which may hinder the effectiveness of the BMPs. Seasonal variations may include changes in flow, hydrology, temperature, and vegetation. BMPs shall be designed according to these variations and appropriately to maintain a level of service.

3.10 The Indiana Department of Environmental Management's the "Indiana Stormwater Quality Manual", should be reviewed and considered when preparing the Perimeter Control Plan.

3.11 Jeffersonville reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by City/ Town/ County, Indiana, the City/ Town/ County or the City of Jeffersonville should be reviewed and considered when preparing the Perimeter Control Plan. These documents may be applied by Jeffersonville as standards by which designs are to be prepared and controls implemented.



## **Section 4 Stormwater Quality Management Permit**

4.1 The City of Jeffersonville requires that all development or redevelopment activities that result in the disturbance of one (1) or more acres of land, including land disturbing activities on individual lots of less than one (1) acre as part of a larger common plan of development or sale, to obtain a Stormwater Quality Management Permit.

4.2 A Stormwater Quality Management Permit must be issued prior to the initiation of any land disturbing activities to ensure the protection of the City of Jeffersonville's stormwater system, public health, water quality and aquatic life.

4.3 It will be the responsibility of the project site owner to complete a stormwater permit application and to ensure that a sufficient construction plan, including a Stormwater Pollution Prevention Plan (SWPPP), is completed and submitted to the Jeffersonville Engineer in accordance with this Ordinance.

4.4 It will be the responsibility of the project site owner to ensure compliance with this Ordinance and implementation of the SWPPP during the construction activity, and to notify the City of Jeffersonville of project termination via a Notice of Termination (NOT) letter upon completion and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site must comply with the requirements of this Ordinance.

4.5 Submittal for a Stormwater Quality Management Permit application must include a Notice of Intent letter with proof of publication of a Public Notice, Construction Plans, a Stormwater Pollution Prevention Plan and any other necessary information or documentation requested by the City of Jeffersonville.

4.5.1 The Notice of Intent (NOI) letter is a standard form that includes the following information:

4.5.1.1 Name, mailing address and location of the project site for which the notification is submitted.

4.5.1.2 The project site owner's name, address, telephone number, email address (if available) and ownership status as federal, state, public, private or other entity.

4.5.1.3 Contact person (if different than project site owner), person's name, company name, address, e-mail address (if available) and telephone number.

4.5.1.4 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.

4.5.1.5 Estimated dates for initiation and completion of construction activities.

4.5.1.6 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.

4.5.1.7 Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots, and other similar improvements.

4.5.1.8 The number of acres to be involved in the construction activities.

4.5.1.9 Proof of publication of a Public Notice in a newspaper of general circulation in the affected city notifying the public that construction activities are to commence, and that states the following:

4.5.1.9.1 "(Company name, address) is submitting an NOI letter to notify the City of Jeffersonville and the Indiana Department of Environmental Management of our intent to comply with the requirements the [name of Ordinance] and the requirements of 327 IAC 15-5 and 327 IAC 15-13 to discharge stormwater 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))."

4.5.1.10 As applicable, a list of all MS4 areas designated under 327 IAC 15-13 in which the project site lies.

4.5.1.11 A signed certification by the operator that:

4.5.1.11.1 the stormwater quality measures included in the construction plan comply with the requirements of this Ordinance and that the SWPPP complies with all applicable federal, state, and local stormwater requirements;

4.5.1.11.2 the measures required by this Ordinance will be implemented in accordance with the SWPPP;

4.5.1.11.3 stormwater quality measures beyond those specified in the stormwater pollution prevention plan will be implemented during the life of the permit if necessary to comply with this Ordinance; and

4.5.1.11.4 installation and maintenance of stormwater quality measures will be inspected by trained individuals.

4.5.1.12 The name of the receiving water(s) 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.

4.5.1.13 The NOI letter must be signed by a Qualified Professional.

4.5.1.14 The NOI letter must be submitted to the City of Jeffersonville Engineer/ Planning Department at the following location/address:

Engineer/ Planning Department  
City of Jeffersonville Engineer  
500 Quartermaster Court  
Jeffersonville, IN 47130

4.5.2 Construction plan sheets and an accompanying narrative report shall be submitted describing existing and proposed site conditions, including the following:

4.5.2.1 Project narrative and supporting documents, including the following information:

4.5.2.1.1 An index indicating the location in the construction plans of all information required by this subsection.

4.5.2.1.2 Description of the nature and purpose of the project.

4.5.2.1.3 Legal description of the project site. The description should be to the nearest quarter section, township, and range, and include the civil township.

4.5.2.1.4 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.

4.5.2.1.5 General construction sequence of how the project site will be built, including phases of construction.

4.5.2.1.6 14-Digit Watershed Hydrologic Unit Code (HUC).

4.5.2.1.7 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.

4.5.2.1.8 A general Site plan exhibit with the proposed construction are superimposed on ortho-aerial map at a scale of 1" = 100'. The exhibit should provide 2-foot contour information and include all roads and buildings within a minimum 500' radius beyond the project boundaries.

4.5.2.1.9 Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.

4.5.2.2 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.

4.5.2.3 An existing project site layout that must include the following information:

4.5.2.3.1 Location, name and normal water level of all wetlands, lakes, ponds and water courses on, or adjacent to, the project site.

4.5.2.3.2 Location of all existing structures on the project site.

4.5.2.3.3 One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.

4.5.2.3.4 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 as determined by a soil scientist. A soil legend must be included with the soil map.

4.5.2.3.5 Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site.

4.5.2.3.6 Location of storm sanitary combined sewer and septic tank systems and outfalls.

4.5.2.3.7 Location of regulated drains, farm drains, inlets and outfalls, if any exist of record.

4.5.2.3.8 Land use of all adjacent properties.

4.5.2.3.9 Existing topography at a contour interval appropriate to indicate drainage patterns.

4.5.2.4 Final project site layout, including the following information:

4.5.2.4.1 Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas.

4.5.2.4.2 One hundred (100) year flood plains, floodway fringes, and flood ways. Please note if none exists.

4.5.2.4.3 Proposed final topography at a contour interval appropriate to indicate drainage patterns.

4.5.2.5 A grading plan, including the following information:

4.5.2.5.1 The Grading Plan shall include provisions for operation and maintenance of measures identified in the Perimeter Control Plan.

4.5.2.5.2 The Grading Plan shall make clear the erosion prevention and sediment controls which are most appropriate to the specific site conditions.

4.5.2.5.3 The Grading Plan shall illustrate the location and extent of erosion prevention and sediment controls.

4.5.2.5.4 The Grading Plan shall include sequencing and schedule information, structural and non-structural Best Management Practices (BMPs), temporary and permanent stabilization measures.

4.5.2.5.5 The Grading Plan shall include anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of sediment and construction debris)

4.5.2.5.6 The Grading Plan shall include provisions for construction phasing. This shall be designed so that stripping and clearing of the site exposes only the area necessary for immediate activities and minimizes the amount of soil exposed at any one time. This includes rough grading, construction of utilities, infrastructure and buildings, and final grading and landscaping. Phasing should identify the expected date on which clearing of the area will begin and the estimated duration of exposure. The sequence of phased clearing and the installation of temporary and permanent erosion control measures should be identified.

4.5.2.5.7 The Grading Plan shall include provisions for a non-disturbance waterway buffer, including:

4.5.2.5.7.1 The no-disturbance waterway buffer shall be defined as twenty-five (25) feet from the top of waterway bank as defined by geomorphic shape and not by the current water surface elevation.

4.5.2.5.7.2 The no-disturbance waterway buffer shall be applied to all waterways and open-air drainage systems that drain more one-hundred (100) acres of tributary area or is presented on a United State Geological Survey map as a solid and dashed blue line stream.

4.5.2.5.8 The Grading Plan shall include provisions for stabilizing denuded areas and soil stockpiles.

4.5.2.5.8.1 Soil stabilization shall be designed to prevent the erosive forces of rain and water flow from washing soil from the site. Soil stabilization measures may be temporary and/or permanent and should be appropriate to the seasonal hydrology, site conditions, and estimated duration the measure will be in place.

4.5.2.5.8.2 Denuded areas must be stabilized with permanent or temporary soil stabilization measures within 15 days of either achieving final grade, or within 15 days to any area that will remain dormant for over 60 days.

4.5.2.5.8.3 Soil stockpiles, if left undisturbed for 15 or more days, shall be stabilized. Sediment trapping measures such as sediment traps and detention ponds shall be utilized to prevent soil loss from the project site through the duration of soil stockpiling practices.

4.5.2.5.9 The Grading Plan shall include provisions for stabilizing cut and fill slopes.

4.5.2.5.9.1 Minimization of erosion must be considered when designing and constructing cut and fill slopes. Length, steepness, soil type, upslope tributary area, groundwater, and other relevant factors must all be taken into account.

4.5.2.5.9.2 Stabilization practices such as rock rip-rap, geosynthetic material, or other methods approved by the City of Jeffersonville shall be used on cut and fill slopes at 3 to 1 or greater.

4.5.2.5.9.3 Cut and fill slopes must be stabilized with permanent or temporary soil stabilization measures within 15 days of either achieving final grade, or within 15 days to any area that will remain dormant for over 60 days.

4.5.2.5.10 The Grading Plan shall include provisions for erosion prevention measures. Erosion prevention measures shall be designed to minimize the suspension of sediment from the soil.

The controls may function independently or in combination with sediment control measures, to prevent sediment laden runoff from leaving the construction site. Acceptable erosion prevention practices include:

4.5.2.5.10.1 Phased Construction/Clearing

4.5.2.5.10.2 Dust control

4.5.2.5.10.3 Construction Road Stabilization

4.5.2.5.10.4 Temporary seeding

4.5.2.5.10.5 Top Soiling

4.5.2.5.10.6 Mulching

4.5.2.5.10.7 Nets and Mats

4.5.2.5.10.8 Geotextiles

4.5.2.5.10.9 Terracing

4.5.2.5.10.10 Soil bioengineering — slope and stream stabilization

4.5.2.5.10.11 Rip-rap

4.5.2.5.10.12 Channel linings

4.5.2.5.10.13 Temporary diversions, drains and swales

4.5.2.5.10.14 Stream crossings

4.5.2.5.10.15 Water bar

4.5.2.5.10.16 Other measures reviewed and accepted by the City of Jeffersonville, are also appropriate erosion prevention practices.

4.5.2.5.11 The Grading Plan shall include provisions for sediment control measures. Sediment control measures shall be designed to remove sediment, by settling, flocculating, filtering or other means, from storm runoff prior to discharge from the construction site. The controls may function independently or in combination with erosion prevention measures, to prevent sediment laden runoff from leaving the construction site. Acceptable sediment control practices in include:

4.5.2.5.11.1 Stabilized construction entrance

4.5.2.5.11.2 Construction entrance tire washing

4.5.2.5.11.3 Buffer zones

- 4.5.2.5.11.4 Check dams
- 4.5.2.5.11.5 Silt fence
- 4.5.2.5.11.6 Double layered straw bale barrier
- 4.5.2.5.11.7 Sand bag barrier
- 4.5.2.5.11.8 Brush, rock filter and continuous berms
- 4.5.2.5.11.9 Sediment traps
- 4.5.2.5.11.10 Temporary sediment / detention basin
- 4.5.2.5.11.11 Temporary inlet protection
- 4.5.2.5.11.12 Temporary outlet protection
- 4.5.2.5.11.13 Infiltration systems
- 4.5.2.5.11.14 Wet detention ponds
- 4.5.2.5.11.15 Dry detention ponds
- 4.5.2.5.11.16 Constructed wetlands
- 4.5.2.5.11.17 Biofilter swales
- 4.5.2.5.11.18 Water quality inlets and hydrodynamic separators
- 4.5.2.5.11.19 Other measures reviewed and accepted by the City of Jeffersonville, are also appropriate sediment control practices.

4.5.2.6 A drainage plan, including the following information:

- 4.5.2.6.1 An estimate of the peak discharge, based on the ten (10) year storm event, of the project site for both preconstruction and post-construction conditions.
- 4.5.2.6.2 Calculation showing that the peak runoff rate post-development for the 10 year and 100 year return period storms of critical duration will not exceed the 2 year and 10 year return period pre-development peak runoff rates respectively
- 4.5.2.6.3 Location, size, and dimensions of all stormwater drainage systems, such as culverts, storm sewers, and conveyance channels.
- 4.5.2.6.4 Locations where stormwater may be directly discharged into ground water, such as abandoned wells or sinkholes. Please note if none exists.



4.5.2.6.5 Locations of specific points where stormwater discharge will leave the project site.

4.5.2.6.6 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.

4.5.2.6.7 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. Include existing retention or detention facilities that will be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design.

4.5.2.6.8 The estimated depth and amount of storage required by the design of the new pond(s) or basin(s).

4.5.2.7 A Stormwater Pollution Prevention Plan (SWPPP) for construction activities must be designed to, at a minimum, meet the requirements of this Ordinance, and must include the following:

4.5.2.7.1 Location, dimensions, detailed specifications, and construction details of all temporary and permanent stormwater quality measures.

4.5.2.7.2 Temporary stabilization plans and sequence of implementation.

4.5.2.7.3 Permanent stabilization plans and sequence of implementation.

4.5.2.7.4 Temporary and permanent stabilization plans shall include the following:

4.5.2.7.4.1 Specifications and application rates for soil amendments and seed mixtures.

4.5.2.7.4.2 The type and application rate for anchored mulch.

4.5.2.7.5 Construction sequence describing the relationship between implementation of stormwater quality measures and stages of construction activities.

4.5.2.7.6 Anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of waste concrete)

4.5.2.7.7 A description of potential pollutant sources associated

with the construction activities that may reasonably be expected to add a significant amount of pollutants to stormwater discharges, including:

4.5.2.7.7.1 Waste concrete management

4.5.2.7.7.2 Material delivery, handling and storage

4.5.2.7.7.3 Sanitary / septic waste management

4.5.2.7.7.4 Solid waste / trash and debris management

4.5.2.7.7.5 Spill prevention control and countermeasures

4.5.2.7.7.6 Vehicle and equipment cleaning, fueling and maintenance

4.5.2.7.7.7 Sensitive and vegetated area preservation

4.5.2.7.8 Material delivery, handling and storage associated with construction activities shall meet the spill prevention and spill response requirements of 327 IAC 2-6.1.

4.5.2.7.9 The SWPPP must include provisions for addressing the following issues as applicable to the site-specific construction activities:

4.5.2.7.10 Dewatering operations

4.5.2.7.11 Contaminated soil management

4.5.2.7.12 Hazardous materials and waste management

4.5.2.7.13 Pesticides, herbicides and fertilizer use

4.5.2.7.14 Collection system maintenance

4.5.2.7.15 Drainage system flushing

4.5.2.7.16 Over-water activities

4.5.2.7.17 A typical erosion and sediment control plan for individual lots.

4.5.2.7.18 Self-monitoring program including plan and procedures.

4.5.2.8 The Indiana Department of Natural Resource's guidance documents, including the "Handbook for Erosion Control in Developing Areas, 1985" or the "Indiana Stormwater Quality Manual", should be reviewed and considered when preparing the

## Grading Plan and Stormwater Pollution Prevention Plan.

4.5.2.9 Jeffersonville reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by City/ Town/ County, Indiana, the City/ Town/ County or the City of Jeffersonville should be reviewed and considered when preparing the Grading Plan and Stormwater Pollution Prevention Plan. These documents may be applied by Jeffersonville as standards by which designs are to be prepared and controls implemented.

### **4.6 Requirements for Individual Lots**

4.6.1 Although no permit is required for individual lots disturbing less than 1 acre within a larger permitted project, a formal stormwater review will be required prior to the issuance of a building permit. All stormwater management measures necessary to comply with this ordinance must be implemented in accordance with the permitted plan for the larger project.

4.6.2 The City of Jeffersonville requires individual lot operators, whether owning the property or acting as the agent of the property owner, to submit the following information for review and approval, prior to the issuance of a building permit.

4.6.3 A site location plan showing the individual lot and all adjacent lots dimensions, elevations, drainage patterns and swales.

4.6.4 An erosion and sediment control plan that , at a minimum, includes the following measures:

4.6.4.1 Installation and maintenance of a stable construction site access.

4.6.4.2 Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

4.6.4.3 Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved.

4.6.4.3.1 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.

4.6.4.3.2 Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

4.6.4.3.3 Self-monitoring program, including a plan and procedures.

4.6.4.4 Certification of Compliance stating that the individual lot-plan is consistent with the stormwater management permit approved by the City of Jeffersonville for the larger project.

4.6.4.5 The individual lot operator is responsible for the installation and maintenance of all erosion and sediment control measures until the site is stabilized.

#### **4.7 Stormwater Quality Management Permit Termination**

4.7.1 The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of stormwater quality measures that are to remain on the project site.

4.7.2 The project site owner shall submit a Notice of Termination (NOT) letter to the City of Jeffersonville and the IDEM and in accordance with the following:

4.7.2.1 Except as provided in 4.9.2.2, the project site owner shall submit an NOT letter when the following conditions have been met:

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

4.7.2.1.2 All temporary erosion and sediment control measures have been removed.

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

4.7.2.3 The project site owner may submit an NOT letter to obtain early release from compliance with this Ordinance, if the following conditions are met:

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

4.7.2.3.2 A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.

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

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

4.7.2.3.5 All permanent storm water quality measures have been implemented and are operational.

4.7.2.4 Following acceptance of the NOT letter and written approval for early release under subsection 4.9.2, 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 this Ordinance. 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 4.9.2.1.1 have been met. The notice must also inform the individual lot owners of the requirements to:

4.7.2.4.1 install and maintain appropriate measures to prevent sediment from leaving the individual building lot; and

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

4.7.2.5 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.

4.7.2.6 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.

4.7.3 A Stormwater Quality Management Permit shall be considered open and active until a time when Jeffersonville accepts the site conditions and as built requirements have been completed.

4.7.4 Acceptance of site conditions shall be made by Jeffersonville or its designated representative based upon an inspection. If any of the following items are deemed to be insufficient, not appropriate and/or inconsistent with the Grading Plan, Stormwater Pollution Prevention Plan or objectives stated in this ordinance the approval will not be granted.

4.7.4.1 Pipes, channels, catch basins, water quality treatment devices and other infrastructure are clear of sediment, obstructions and debris, and are designed and operating as appropriate for final site conditions.

4.7.4.2 Slopes are permanently stabilized.

4.7.4.3 Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection, etc.) have been removed (as appropriate) and any resulting soil disturbance stabilized.

4.7.4.4 Temporary pollution prevention practices have been demobilized or removed and affected areas stabilized.

4.7.4.5 Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices.

4.7.4.6 Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to designed volume and condition.

4.7.4.7 Other items as deemed to be important by Jeffersonville or its designate.

#### 4.7.5 As-built Requirements

4.7.5.1 Prior to issuance of a use and occupancy permit or final release of bond, the as-built condition of critical stormwater management facilities must be reviewed and approved.

4.7.5.2 The volume, capacity, slope, configuration, condition, "as-planted" plans and topographic information, as well as all pipe size, material, lengths, for all detention, retention and water quality practices shall be certified by a Professional Engineer licensed in the State of Indiana. This information shall be provided to Jeffersonville in the form of an as-built drawing or other electronic form accepted/required by Jeffersonville. The as-built certification shall indicate if final conditions are consistent with, or exceed, the Stormwater Quality Management Permit provisions.

4.7.5.3 If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the Stormwater Quality Management Permit requirements, the City of Jeffersonville reserves the right to withhold certification of occupancy or final bond. Furthermore, other enforcement mechanisms, as identified within this ordinance, may be applied to the Person certifying the as-built information.

4.7.5.4 If upon inspection by Jeffersonville or designated agent it is determined that there is an item that must be addressed to receive acceptance of site conditions, then the Person shall be required to continue inspections and maintenance as described in the Stormwater Quality Management Permit.

## **Section 5 Inspections and Maintenance**

### **5.1 Permittee Performed Inspections and Maintenance**

5.1.1 Permittee Performed Inspections (Self Inspections) must be performed by a Qualified Professional.

5.1.2 Inspections shall be performed at all control measures a minimum of one (1) time per week, and by the end of the next business day following a one-half (0.5) inch measurable storm event. The inspections will determine the overall effectiveness of the Grading and Stormwater Pollution Prevention Plans, needed maintenance activities and the need for additional control measures.

5.1.3 All inspections shall be documented in written form and made available to Jeffersonville or submitted at the time interval specified in the approved permit.

5.1.4 Inspections shall be performed consistent with specific visual maintenance checklists approved by Jeffersonville.

5.1.5 Documentation of permittee performed inspections and inspection findings shall be kept on site, if appropriate facilities (such as a project trailer or building) are available. In the event, that appropriate facilities are not available then a copy of the most recent inspection shall be displayed at the site along with other documents that must be displayed to the public per other local, state and federal regulations.

5.1.6 Documentation of permittee performed inspections and inspection findings shall be made available within forty-eight (48) hours of a request by Jeffersonville or designated agent. Failure to post or timely submit documentation as requested will be assumed to indicate that inspections were not performed and may result in corresponding enforcement procedures.

5.1.7 Inspection documentation reports shall include, but are not limited to:

5.1.7.1 The address of the site.

5.1.7.2 The parcel identification number.

5.1.7.3 The name of the owner or owner's agent.

5.1.7.4 The location of the stormwater system(s).

5.1.7.5 A description of the current operational or functional status of the stormwater system(s). For sediment control structures, an indication of used and remaining, capacity (fraction, percentage, depth or volume) shall be given to identify when the control must be cleaned out.

5.1.7.6 Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the stormwater system(s).

5.1.7.7 The results of any field or laboratory analyses performed.

5.1.7.8 Other relevant or unusual observations related to the system(s).

5.1.7.9 Action plan to prevent premature stormwater system failure as consistent with the Stormwater Quality Management Permit provisions.

5.1.7.10 Action plan to prevent the premature system failure that exceeds the Stormwater Quality Management Permit provisions, but are necessary to prevent stormwater pollution from leaving the site.

## **5.2 Oversight Inspections**

5.2.1 Jeffersonville or designated agent have the authority to periodically inspect the site of land disturbing activities for which permits have been issued. Jeffersonville may make inspections of the site at their discretion and shall either approve the portion of the work completed or shall notify the permittee wherein the work fails to comply with the Grading or Stormwater Pollution Prevention Plans as approved or is ineffective (regardless of consistency with an approved Grading Plan).

5.2.2 Jeffersonville or its designated agent's inspections and findings will be presented and reviewed with the permittee at the time of inspection (as available to site personnel), and be available in the City of Jeffersonville permit file with in 7 days.

5.2.3 In order to obtain inspections, the permittee shall notify Jeffersonville at least two (2) working days before the following activities.

5.2.3.1 Perimeter/Outfall Protection Permit Approval - Prior to the initiation of the project after perimeter protection erosion prevention and sediment control practices have been installed, but prior to disturbance of the remaining site.

5.2.3.2 Bond release inspections.

5.2.3.3 Upon completion of the project in order to receive approval to cease permittee inspections in compliance with the *Storm water Quality Management Permit*.

5.2.4 Jeffersonville or its designated agent may identify any repairs, sediment/debris removal or replacement of all or portions of the stormwater system(s) necessary to comply with the objectives of this ordinance and the *Storm water Quality Management Permit*.

5.2.5 Jeffersonville or its designated agent may develop and require the implementation of an action plan and compliance schedule that prevents the premature stormwater quality management system failure as consistent with the Stormwater Quality Management Permit provisions.

5.2.6 Jeffersonville or its designated agent may develop and require the implementation of an action plan to prevent the premature system failure that exceeds the Stormwater Quality Management Permit provisions, but are necessary



to prevent stormwater pollution from leaving the site.

### **5.3 Maintenance**

5.3.1 Maintenance must be performed under the direction and/or supervision of a Qualified Professional.

5.3.2 Maintenance of erosion prevention, sediment control and pollution prevention practices shall be performed according to the Grading and Pollution Prevention Plans.

5.3.3 Maintenance activities shall be performed in accordance with action plans developed through the course of permittee performed inspections. This may represent activities that exceed provisions of the Grading and Pollution Prevention Plans, but are necessary to prevent stormwater pollution from leaving the site.

### **5.4 Qualified Professional Registration and Certification**

5.4.1 A Qualified Professional is required to perform routine inspections and direct and/or supervise maintenance activities to ensure that the Stormwater Quality Management Permit provisions are being implemented properly.

5.4.2 All Qualified Professionals performing inspections or overseeing maintenance activities under this Ordinance must be registered with Jeffersonville and certified prior to execution of those actions. All applicants must file an application with 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.

5.4.3 Jeffersonville reserves the right to require that Qualified Professional applicants pay a registration fee.

5.4.4 Jeffersonville reserves the right to require that Qualified Professional applicants satisfactorily complete a training course approved by Jeffersonville.

5.4.5 Jeffersonville reserves the right to require that Qualified Professional applicants be re-certified as often as every five (5) years.

5.4.6 Jeffersonville reserves the right to require that Qualified Professional applicants successful pass a written exam covering construction practices, operational standards, causes and indicators of stormwater quality management system failures and corrective actions as approved by Jeffersonville.

5.4.7 Jeffersonville may de-certify any Qualified Professional under one or more of the following circumstances:

5.4.7.1 The individual fails to comply with the regulation.

5.4.7.2 Jeffersonville determines that the individual is incompetent.

5.4.7.3 The individual is unable to properly perform an evaluation of a stormwater quality management system.

5.4.7.4 The individual is negligent in the discharge of its duties as outlined in the certification requirements.

5.4.7.5 The individual submits false or misleading information.

5.4.7.6 The individual does not maintain the required certification as required by this Ordinance.

5.4.8 Jeffersonville shall give written notice to a Qualified Professional before s/he is de-certified. The inspector shall be given an opportunity at an informal meeting with Jeffersonville to demonstrate why s/he should not be de-certified. Any Qualified Professional who is de-certified may appeal that decision by following the procedure in Section 7 of this Ordinance.

5.4.9 If a Qualified Professional is de-certified, he/she may apply for re certification contingent upon completing the requirements established in this ordinance after a period of at least one (1) year. Re-certification shall not be permitted prior.

## **5.5 Responsibilities of Jeffersonville**

5.5.1 Administer and enforce this Ordinance.

5.5.2 Develop and administer a process for certifying Qualified Professionals.

5.5.3 Maintain a list of certified Qualified Professionals.

5.5.4 Require corrective actions where there is evidence of a system failure.

5.5.5 Establish criteria for the inspections and the certification of Qualified Professionals and make such criteria and related forms available to the public.

## **5.6 Fees**

5.6.1 Jeffersonville reserves the right to require fees to cover expenses, including but not limited to overhead, labor, storage, training, etc., associated with the certification, training and inspection process.

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

## **Section 6 Enforcement**

6.1 Jeffersonville may institute appropriate actions or proceedings at law or equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms

of remedy or relief.

6.2 Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent the City of Jeffersonville from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.

6.3 Any of the following enforcement remedies and penalties shall be available to the City of Jeffersonville in response to violations of this ordinance. If the person, property or facility has or is required to have a stormwater discharge permit from the Indiana EPA, the City of Jeffersonville shall alert the appropriate state authorities of the violation.

6.3.1 Notice of Violation (NOV) —Whenever designated City of Jeffersonville staff find that any person, company or facility owning or occupying a premises has violated or is violating this Ordinance or order issued hereunder, the enforcement official may serve, by personal service, or by registered or certified mail, upon said person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the City of Jeffersonville or its designee. Submission of this plan shall in no way relieve liabilities for violations occurring before or after receipt of the NOV.

6.3.2 Revocation of permit — The City of Jeffersonville, or its designee may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications; refusal or failure to comply with the requirements of state or local law; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

6.3.3 Compliance order — If any person, company or facility shall violate the provisions of this ordinance, the City of Jeffersonville, or its designee, may give notice to the owner or to any person in possession of the subject property, ordering that all unlawful conditions existing thereupon be abated within a schedule defined from the date of such notice.

6.3.3.1 The enforcement official shall have the authority to establish elements of a stormwater pollution prevention plan, and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this chapter. The enforcement official may establish the requirements of Best Management Practices for any premises.

6.3.3.2 The notice and order may be given provided, that if, in the opinion of the City of Jeffersonville or its designee, the unlawful condition is such that it is of imminent danger or peril to the public, then an authorized Jeffersonville representative may, without notice, proceed to abate the

same, and the cost thereof shall be charged against the property. The City of Jeffersonville, as described further in this subsection, may recover the cost of such actions from the property owner.

6.3.4 Civil Penalties — Any person, company or facility who has been found to have been in violation of any provision of this Ordinance, may be assessed a civil penalty not to exceed the amount presented in this subsection.

**Need to determine consistency with state enabling legislation;**

6.3.4.1 The penalty shall increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company, construction site or facility. The penalty shall be additional to other enforcement actions of this section.

**/Weed to determine consistency with state enabling legislation;**

6.3.4.2 The penalty may be assessed for each day beyond schedules applied in compliance orders or other schedules issued to the property owner or other person responsible for unauthorized activity defined in this Ordinance.

6.3.4.3 In determining the amount of the penalty the Court shall consider the following:

6.3.4.3.1 The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;

6.3.4.3.2 The duration and gravity of the violation;

6.3.4.3.3 The effect on ground or surface water quality;

6.3.4.3.4 The cost of rectifying the damage;

6.3.4.3.5 The amount of money saved by noncompliance;

6.3.4.3.6 Whether the violation was committed willfully or intentionally;

6.3.4.3.7 The cumulative effect of other enforcement actions applied for the same offense;

6.3.4.3.8 The prior record of the violator in complying or failing to comply with the stormwater quality management program; and

6.3.4.3.9 The costs of enforcement to the City of Jeffersonville.

6.3.4.4 The maximum civil penalties will be determined by the type of

offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.

6.3.4.4.1 Development without permit — \$10,000 To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this ordinance without all required permits, certificates, or other forms of authorization as set forth in this ordinance.

6.3.4.4.2 Development inconsistent with permit — \$5,000 To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

6.3.4.4.3 Violation by act or omission — \$5,000 To violate, by act or omission, any term, variance, modification, condition, or qualification placed by Jeffersonville or its agent departments upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.

6.3.4.5 In the event there are penalties assessed by the State against the City of Jeffersonville caused by any person, company or construction site or facility, the said shall be assessed the equivalent amount of civil penalty. This shall include, but is not limited to penalties for improper disposal or illegal dumping, or illicit connection into the municipal separate storm sewer system.

6.3.5 Administrative fee — Any person, company or facility who undertakes any development activity requiring a stormwater management plan hereunder without first submitting the plan for review and approval shall pay to the City of Jeffersonville, in addition to any permit or inspection fee, an administrative fee of up to \$5,000.

6.3.6 Order to clean and abate / restore — Any violator may be required to clean and/or restore land to its condition prior to the violation.

6.3.7 Cost recovery - If corrective action, including maintenance delinquency, is not taken in the time specified, or within a reasonable time, if no time is specified, the City of Jeffersonville may take the corrective action, and the cost of the corrective action shall be the responsibility of the owner and/or the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within ninety (90) days, the enforcement official shall have the authority to place a lien upon and against the property. If the lien is not satisfied

within ninety (90) days, the enforcement official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property.

6.3.8 Injunctions and/or proceedings at law or in equity — Any violation of this Ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceedings pursuant to state law.

6.3.9 Fee or utility credit revocation — This enforcement tool is intended to be available or used if there are, at any time, provisions for a funding mechanism managed by the City of Jeffersonville. This enforcement tool permits that credits or other measures to reduce fees or utility charges may be revoked, in full or in part, if any provisions of this article are violated.

6.3.10 Civil actions — In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City of Jeffersonville's attorney. Monies recovered under this subsection shall be paid to the City of Jeffersonville to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance. In any such action, the City of Jeffersonville may seek, as appropriate, any or all of the following remedies:

6.3.10.1 A temporary and/or permanent injunction;

6.3.10.2 Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which lead to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

6.3.10.3 Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation;

6.3.10.4 Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

6.3.11 Emergency Orders and Abatements. The enforcement official may order the abatement of any discharge from any source to the stormwater conveyance system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, the environment, or a violation of an NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, or the environment or a violation of a NPDES permit, the City of Jeffersonville may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement

shall be borne by the owner and shall be collectable in accordance with the provisions of this subsection.

## **Section 7 Appeals**

7.1 The Stormwater Appeals Committee or its successor shall be charged with addressing appeals to violations and related matters of this Ordinance.

7.2 In order to have an appeal considered, the applicant shall submit a written request. The Committee shall have the authority to grant appeals to violations of this Ordinance or overwrite decisions made by the City of Jeffersonville provided they are consistent with the objectives and policies of this Ordinance. The Committee does not have the authority to permit actions by the applicant that are based in lack of proper planning or implementation of site development as defined in this ordinance and other measures applied to Jeffersonville.

7.3 The Committee will be made available to review accepted request(s) for appeals on an as-needed basis. The decisions of the Committee are final and conclusive, but may be reviewed through the appropriate court actions. The Committee shall make its findings within five (5) business days after the appeal hearing.

7.4 Upon issuance of a decision, citation or notice of violation of this article it shall be conclusive and final unless the accused violator submits a written notice of appeal to the City of Jeffersonville within ten (10) days of the violation notice being served. If the City of Jeffersonville does not issue a decision within ten (10) days of the written notice of appeal then the violation is considered upheld. If the City of Jeffersonville does not reverse the decision, the aggrieved party may appeal to the Stormwater Appeals Committee or successor, by filing a written request for hearing within ten (10) days of the City of Jeffersonville's decision on the appeal. The request for hearing shall state the specific reasons why the decision of the City of Jeffersonville is alleged to be in error, and shall be accompanied by a cost bond in the amount of five hundred dollars (\$500.00) with sufficient surety to secure the costs of the appeal, including the cost of court reporters, transcripts, plan reviews and other costs.


## **Section 8 - Severability**

8.1 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.

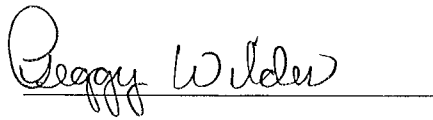
8.2 If any provisions of this Ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

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

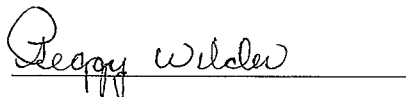
Passed this 18<sup>th</sup> day of October, 2010.

  
Thomas Galligan, Mayor

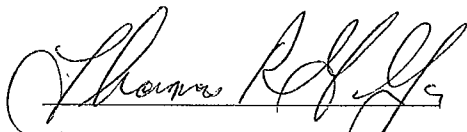
Attest :

  
Peggy Wilder, Clerk Treasurer

Presented to me as Clerk and Treasurer to the Mayor of the City of Jeffersonville this  
19<sup>th</sup> day of October, 2010.

  
Peggy Wilder, Clerk Treasurer

This Ordinance approved and signed by me this 20<sup>th</sup> day of October, 2010

  
Thomas Galligan, Mayor