

CHAPTER 51A: STORMWATER MANAGEMENT

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51A.01 STORMWATER MANAGEMENT DEPARTMENT TO OPERATE STORMWATER SYSTEM.

(A) *Establishment.* The Stormwater Management Department, a department of the city, is hereby established. The department shall be headed by a superintendent to be appointed by the Mayor of the city. The superintendent, together with appointed staff, will be responsible for the day-to-day operations of the Department.

(B) *Applicable state law.* The Stormwater Management Department shall be subject to I.C. 36-9-23, as amended and in effect from time to time.

(C) *Board of Public Works.* The department, through the superintendent, shall report directly to the Board of Public Works of the city. The Board of

Public Works shall perform all necessary administrative policy-making oversight of the operations of the department.

(D) *General powers of the department.* The department shall have exclusive departmental jurisdiction over the collection and conveyance of stormwater within the city and the combined sewers in the city, and shall possess the following general powers:

(1) Install, maintain and operate the stormwater collection and conveyance system and the combined sewers of the city.

(2) Make all necessary or desirable improvements to the stormwater collection and conveyance system and the combined sewers of the city (including all appropriate actions taken with respect to sewer separation) and, when determined to be in the best interests of the city, to acquire or otherwise assume jurisdiction over any other improvements or facilities relating to the control of stormwater collection and conveyance currently owned or under the jurisdiction of other parties.

(3) Establish and enforce the rules, regulations, policies and procedures promulgated by the department as the same may be approved by the Board of Public Works and, if appropriate, the Common Council.

(4) Hold hearings and make findings and determinations to carry out the policies and procedures of the department with respect to the use of the stormwater system by the users thereof and the proper rates and charges imposed on such users.

(5) Recommend to the Board of Public Works and the Common Council reasonable and just rates and charges for services to the users of the stormwater collection and conveyance system and combined sewers of the city.
(Ord. 77-01, passed 1-10-02; Am. Ord. 72-04, passed 9-9-04)

• **51A.02 PURPOSE AND OBJECTIVE.**

(A) The mission of the city stormwater management program is to develop, implement, operate and adequately and equitably fund the acquisition, construction, operation, maintenance and regulation of stormwater collection and drainage systems and activities in the city including without limitation sewer separation and other improvements to the existing combined sewers of the city.

(B) The program shall safely and efficiently control stormwater runoff, enhance public health and safety, protect lives and property, facilitate mobility and enable access to homes and businesses throughout the community during storms, complement and support other city programs and objectives, control the discharge of pollutants in stormwater to receiving waters and enhance the natural resources of the community.

(Ord. 77-01, passed 1-10-02)

• **51A.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

APPLICANT. The owner of land requesting a drainage credit or his agent or his legal representative.

CITY. The City of Anderson, Indiana.

COMBINED SEWER. Pipe or conduit primarily used to convey sanitary sewage and secondarily intended to convey stormwater.

CUSTOMER or USER. A property owner benefiting from the stormwater system.

DEPARTMENT. The Stormwater Management Department established under ' 51A.01.

DEVELOPED. The condition of real property altered from its natural state by the addition to or construction on such property of impervious surfaces or physical improvements such that the hydrology of the property or a portion thereof is affected.

DETENTION. The temporary storage of storm runoff in a basin, pond or other structural or non-structural device to control the peak discharge rates by holding the stormwater for a lengthened period of time and which provides gravity-settling of pollutants.

DETENTION FACILITY. A facility constructed for the purpose of mitigating stormwater runoff from a developed site to control the peak discharge rate that is normally maintained either as a dry basin or with a permanent pool of water.

DITCH-OPEN. A relatively deep drainage channel which may have a continuous water flow. Open ditches are outlets for both surface, subsurface or storm sewer drainage systems.

DITCH-LEGAL. Any drainage system under the jurisdiction of the Madison County Drainage Board as of the date of enactment of this chapter.

DRAIN. Relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.

DRAINAGE EASEMENT. The land required for the installation of stormwater sewers or drainage ditches or required along a natural stream or water course for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

DRAINAGE FACILITIES. All ditches, channels, conduits, retention-detention systems, tiles, drainage swales, sewers and other natural or artificial means of draining stormwater from land.

DRAINAGE REQUIREMENTS.

- (1) Minimum drainage standards as established by this chapter;
- (2) Regulations promulgated by the Board of Public Works of the city;
- (3) Obligations and requirements relating to drainage established under the subdivision control regulations of the city;
- (4) Requirements contained in the zoning regulations of the city, including floodway zoning requirements;
- (5) Obligations and requirements relating to drainage established under the Drainage Board of Madison County, Indiana, and
- (6) Conditions relating to drainage attached to a grant of variance by the Board of Zoning Appeals of the City.

DRAINAGE-SUBSURFACE. A system of pipes, tile, conduit: or tubing installed beneath the ground used to collect underground water from individual parcels, lots, building footings or pavements.

DRAINAGE-SURFACE. A system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways and yards so that storm runoff is removed without ponding and flows to a drainage swale, open ditch or a storm sewer.

DRAINAGE-SWALE. A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.

DRAINAGE-SYSTEM. Any combination of surface and/or subsurface drainage components fulfilling all applicable drainage requirements.

EASEMENT. A grant by the property owner of the use of a strip of land by the public, a corporation or other legal entity for specified purposes.

ENGINEER. The City Engineer of the City of Anderson, Indiana.

ERU. Equivalent Residential Unit, equal to the average amount of impervious area found on a typical single-family residential parcel which is 2,500 square feet. Therefore, one ERU equals 2,500 square feet of impervious area.

IMPERVIOUS AREA. Area within developed land that prevents or significantly impedes the infiltration of stormwater into the soil. Included in this definition are areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

INFILTRATION. A complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

LAND ALTERATION. Any action taken relative to land which either:

- (1) Changes the contour;
- (2) Increases the runoff rate;
- (3) Changes the elevation;
- (4) Decreases the rate at which water is absorbed;
- (5) Changes the drainage pattern;
- (6) Creates or changes a drainage facility;
- (7) Involves construction, enlargement or location of any building on a permanent foundation; or
- (8) Creates an impoundment. Land alteration includes (by way of example and not of limitation) terracing, grading, excavating, constructing earthwork, draining, installing drainage tile, filling and paving.

MAINTENANCE. Cleaning out of, spraying, removing obstructions from and making minor repairs in a drainage facility so that it will perform the function for which it was designed and constructed.

NPDES. The National Pollutant Discharge Elimination System, the EPA program initiated to reduce and eliminate pollutants reaching water bodies of all types.

NPDES PERMIT. Stormwater management permit required of municipalities and certain industries by the EPA pursuant to Section 402 of the Clean Water Act.

PEAK DISCHARGE. The maximum rate of flow of water passing a given point during or after a rainfall event. Sometimes called peak flow.

PRIVATE STORMWATER FACILITIES. Various stormwater and drainage works not under the control or ownership of the City, Madison County, the State of Indiana or the federal government which may include inlets, conduits, pipes, pumping stations,

manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

PROPERTY OWNER. The individual, partnership, corporation or other legal entity holding the deed or record title to real property.

PUBLIC DRAINAGE SYSTEM. Various storm water and drainage works under the control and/or ownership of the City, Madison County, the State of Indiana or the federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate storm water.

RESIDENTIAL PROPERTY. A lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating.

RETENTION. The holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

RIGHT-OF-WAY. Any highway, street, avenue, boulevard, road, lane or alley and includes the entire right-of-way for public use thereof and all surface and subsurface improvements thereon including, without limitation, sidewalks, curbs, shoulders, utility lines and mains.

SEWER SEPARATION. A project intended to reduce the amount or rate of storm-water entering the wastewater treatment plant. Sewer separation projects include, but are not limited to, new sanitary sewer construction with conversion of combined sewer to storm sewer; new storm sewer construction with conversion of combined sewer to sanitary sewer; combined sewage holding tanks and equalization tanks at the treatment plant.

STORM SEWER. A sewer designed or intended to convey only stormwater, surface runoff, street

wash waters and drainage and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. A storm sewer begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer.

STORMWATER SERVICE CHARGE. A charge imposed on users of the stormwater system.

STORMWATER SYSTEM. All constructed facilities, including combined sewers, structures and natural watercourses owned by or under the jurisdiction of the city used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features; creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations.

SUPERINTENDENT. The superintendent of the department.
(Ord. 77-01 passed 1-10-02)

' 51A.04 STORMWATER SERVICE CHARGE.

A stormwater service charge shall be imposed on each and every lot and parcel of land within the city which directly or indirectly contributes to the stormwater system of the city, which charge shall be assessed against the property owner thereof, who shall be considered the user for the purposes of this chapter. This charge is deemed reasonable and is necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system.
(Ord. 77-01 passed 1-10-02)

' 51A.05 STORMWATER SERVICE RATE ESTABLISHMENT PROCEDURES.

(A) Charge per ERU. The stormwater service charge shall be \$3.50 per ERU per month. For the purpose of this chapter, a month shall be considered

25 through 35 days. Any billings for stormwater service outside this time shall be on a per diem basis.

(B) Basis for charge. The stormwater service charge is designed to recover the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the stormwater service charge. This rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(Ord. 77-01 passed 1-10-02)

' 51A.06 RATE STRUCTURE AND CALCULATION.

(A) *Generally.* For the purposes stated in ' ' 51A.02 and 51A.05 there is hereby assessed a stormwater service charge for each property owner owning land situated within the corporate limits of the city that contributes directly or indirectly to the stormwater system of the city, in an amount as determined below.

(B) *Impervious area.* For any such property, lot, parcel of land, building or premises which contribute directly or indirectly to the stormwater system of the city, such charge shall be based upon the quantity of impervious area situated thereon. Impervious area of public, rights-of-way and railroad lines (which shall not be deemed to include adjacent property, such as a railyard operated by a railroad), will not be included in the determination of a stormwater service charge. In addition, the department shall establish policies and procedures to make determinations whether commonly-owned, adjoining properties with separate plat or legal descriptions should be treated as a single parcel of land for purposes of calculating the stormwater service fees to be charged for such properties.

(C) *Classification of property.* All properties within the city will be assigned an Equivalent Residential Unit (ERU), or a multiple thereof, with all properties having impervious area assigned at least one ERU (except as otherwise provided in ' 51A.06(E) below), as follows:

(1) Single-family residential properties. A monthly flat-rate charge for stormwater service rendered to single-family residential properties shall be assessed to each single-family residential parcel within the city limits. All single-family residential properties are hereby assigned one ERU.

(2) Other properties. Properties with impervious area other than those containing a single-family residence will be assigned an ERU multiple based on the total amount of impervious area on the property (measured in square feet) divided by 2,500 square feet. ERU multiples, after taking into consideration any credits granted as provided in ' 51A.09 of this chapter, shall be rounded to nearest whole integer.

(D) *Land alterations.* The issuance of any building permit or other action which results in a land alteration of a property other than a single-family residential property or a property that currently only contains a single-family residence but will be no longer used for such purpose shall be cause for an adjustment of the stormwater service charge determined under this section. The property owner shall have the obligation of informing the department of any such changes.

(E) *Exceptions/exemptions.* Except for public rights-of-way and railroad lines, there shall be no exceptions or exemptions from the assignment of gross stormwater ERUs for any property with impervious area except that properties other than single-family residential parcels with impervious area of less than 500 square feet shall be exempted from the assignment of an ERU.

(Ord. 77-01 passed 1-10-02)

' 51A.07 BILLINGS; TERMS OF PAYMENT.

(A) *Billings.* All stormwater service bills shall be rendered on a monthly basis unless additional or prorated billing is required to reflect customer changes, initial billings or is otherwise required to adjust billing cycles. Charges for miscellaneous services or work performed on behalf of a stormwater customer by the department shall be assessed at the time the work is completed and shall be included in

the customer's next stormwater service bill. Stormwater billing for a new property shall commence with the billing for water service, the meter set date or date of occupancy whichever shall first occur. Additional stormwater charges for an established service address necessitated by a change in the amount of impervious area at the property shall commence on the date the new certificate of occupancy or compliance is issued. Billing adjustments required to correct impervious area measurements shall be applied retroactively to the date of the customer's initial protest. Billing adjustments required to implement credits under ' 51A.09 of the chapter shall be applied retroactively to the date of the customer's application. Adjustments shall be made by crediting the stormwater service charge portion of the customer's utility account until any overpayment has been fully repaid. If the adjustment is greater than the total of that customer's previous two month's billings for stormwater services, the city utilities department will issue a refund check for the adjustment amount upon written request to such department.

(B) *Rights and responsibilities of property owner.* The provisions of the following subsection are applicable only to residential leaseholds of a single-family dwelling unit, and shall not be applicable to commercial leaseholds or residential leaseholds of structures containing more than one dwelling unit. The rates and charges may be billed to the tenant occupying the property served if evidence is presented in writing to the utility office that the tenant has agreed to pay these rates and charges. The owners of property served which are occupied by tenants shall have the right to examine the collection records of the city for the purpose of determining whether such rates and charges have been paid by such tenants. Charges for stormwater service shall remain the ultimate responsibility of the property owner, including all penalties, recording fees, attorney's fees, interest and court costs. Other than the property owner, no other person shall be permitted to inspect, examine or otherwise obtain confidential information including the social security number of the property owner obtained by the city utility for the sole purpose of billing for stormwater system service. For properties with inactive utility accounts where no water charges have been generated for 60 days or more, a stormwater only account number will be issued to such property,

payable by the owner of said property, until water charges have been reinstated. Stormwater service charges attach to the property, provided, however, that if a property owner sells or otherwise transfers such property billed for stormwater service, such property owner shall be responsible for the payment of all bills rendered for stormwater service until written notice of the transfer has been provided to the city utility department and the account may properly be transferred to another customer.

(C) *Terms of payment.* The stormwater service charges prescribed in ' 51A.06 shall be due on the payment date set out on the bill. It shall be a violation of this chapter to fail to pay a stormwater service bill when due. All bills for stormwater services not paid on or before the due date, shall be subject to a collection or deferred payment charge of 10% on the outstanding balance. Moving from one location to another in no way absolves the customer from responsibility for any unpaid charges incurred at a previous location.

(D) *Bad check charge.* Checks returned for non-sufficient funds will be subject to reimbursement of the fee the banking institution charges the city utilities department and an administrative charge to be established by the department not in excess of the amount provided in I.C. 35-43-5-5(e). A customer submitting a bad check may be prohibited from making future stormwater service charge payments by check.

(E) *Collection.* Delinquent stormwater service charges may be collected in a civil action along with other delinquent city utility charges, reasonable attorney fees and court costs.

(Ord. 77-01 passed 1-10-02; Am. Ord. 34-02, passed 8-8-02)

' 51A.08 APPEALS OF ERU DETERMINATION.

If, in the opinion of any single-family residential property owner, the ERU multiple assigned to the property of such owner is inaccurate in light of the amount of impervious area contained on said property, such property owner shall have the right to contest such ERU determination. The Department shall

develop and promulgate policies and procedures to resolve any such contests, including, as determined necessary, the conducting of hearings and the making of determinations with respect to the measurement of impervious area contained on any property.

(Ord. 77-01 passed 1-10-02)

' 51A.09 CREDIT POLICIES AND PROCEDURE.

Currently the city requires all developments to meet certain minimum detention criteria. Properties that meet such criteria will receive a 25% credit. Properties that meet the minimum city requirements plus achieve additional detention will receive up to an aggregate total of 40% credit for stormwater detention. An additional 10% credit can be obtained for water quality measures implemented by the property owner. The minimum stormwater service charge shall remain one ERU, even if the credit or credits reduce the ERU multiple below one ERU. The following outlines the criteria for each level of credit.

(A) *Minimum detention criteria.* The city currently requires that all new developments meet the following criteria:

(1) Developed discharge not to exceed five years predeveloped rate; and

(2) Development must provide retention or detention of 25 years developed rate on site through inline storage, pond or parking lot.

Properties that meet these criteria shall receive a 25% credit. The department shall develop policies and procedures for documenting compliance with the requirements for this credit, including provisions for extending the credit for properties with improvements built prior to the date that detention/retention was required but which has a basin in use. All drainage facilities shall be in approved drainage easements before any credit will be allowed. In addition, all drainage facilities shall be maintained by the property owner and verified on annual inspections for the property owner to maintain established credit. Inspections shall be performed annually. In the event of non-compliance, the property owner shall be

notified and given 30-60 days, depending on the severity of the non-compliance, to remediate the deficiencies and respond. If such noncompliance has not been remediated by the expiration date of the remediation period given to the property owner, the credit shall be forfeited and the property owner must reapply to obtain a new credit.

(B) *Maximum detention criteria.* In addition to the minimum detention credit, a property owner may receive up to an additional 15% credit if the owner's stormwater facilities exceed the city minimum detention requirements in the manner hereinafter described. By increasing capacity on-site, these detention efforts reduce the demand and stress on the downstream drainage facilities. The city shall credit up to an additional 15% for facilities that meet the following criteria:

<i>Criteria</i>	<i>Credit</i>
(1) Provide an additional 20% volume storage	4%
(2) Provide a reduction in developed peak runoff rate by 20%	4%
(3) Provide storage for 100-year events	4%
(4) Provide extended storage with the potential for ground water recharge	3%

The department shall develop policies and procedures for documenting compliance with the requirements for the credits described in this division.

(C) *Volume credit.* Properties that provide additional volume under the emergency spillway of the detention facility shall receive up to an additional 4% credit. To receive this credit, the applicant must provide the calculations and data necessary to quantify the additional storage volume. The credit is calculated by determining the minimum detention volume required by the city and comparing it to the volume provided. The additional credit shall be calculated based on the following table:

Table 51A.09(C) - Volume Credit

<i>Additional Volume Provided</i>	<i>Credit</i>
20% or Greater	4%
15-20%	3%
10-15%	2%
5-10%	1%
0-5%	0%

(D) *Peak reduction credit.* Properties that provide additional decrease in peak flow rate shall receive up to an additional 4% credit. The credit is calculated by determining the required peak outflow to meet the city requirements and comparing it to the designed peak outflow. The additional credit shall be calculated based on the following table:

Table 51A.09(D) - Peak Reduction Credit

<i>Additional Reduction in Peak</i>	<i>Credit</i>
20% or Greater	4%
15-20%	3%
10-15%	2%
5-10%	1%
0-5%	0%

(E) *100-year storage credit.* Properties that provide additional storage to contain a 100-year event without flowing through the emergency spillway will receive up to an additional 4% credit. This credit is applied only if the pond is designed to contain the 100-year design flow, without flowing over the emergency spillway. If this design criteria is met then an additional 4% will be added to the minimum credit.

(F) *Extended storage credit.* Properties that provide extended storage greater than 24 hours will receive up to 3% additional credit. The credit will be calculated by determining the time it takes the pond to drain from its peak elevation to the original time to peak of the undeveloped conditions. The additional credit percentage will be determined by the following table:

Table 51A.09(F) - Extended Storage Credit

<i>Detention Time Provided</i>	<i>Credit</i>
24 hrs. or greater	3%
16-24 hrs.	2%
8-16 hrs.	1%
0-8 hrs.	0%

(G) *Water quality credit.* Properties that provide measures that improve the quality of stormwater that leaves the property will receive up to an additional 10% above the maximum 40% for stormwater quantity. This credit can apply to property owners who are required to maintain individual NPDES industrial permits. All applicants for the water quality credit will be required to provide copies of past Site Compliance Evaluations and the most current Site Compliance Evaluations to maintain this credit. The department shall develop policies and procedures to establish standards for the granting of the water quality credit.

(H) *Payment required.* Application for any one or more credits or any appeal of the determination or determinations made in respect thereto shall not constitute a valid reason for non-payment by the user of the originally assessed stormwater service charge.

(I) *Appeals.* Determinations regarding credits for a user may be appealed in the same manner as will be established by the department for appeals of ERU determinations pursuant to ' 51A.08 of this chapter.

(J) *Inspections.* Any party requesting a credit shall permit the department and its agents to undertake any inspection or inspections needed in the discretion of the Department to determine whether any one or more credits are appropriate. The department further reserves the right to inspect periodically all storm drainage control facilities of a user that has received one or more credits to ascertain whether such facilities are operating properly. If such facilities, due to improper maintenance or any other reason, fails to meet the criteria required for any credit, the superintendent shall issue an order to complete the repairs of such facilities within 60 days. If such repairs are not completed within the 60-day period, the superintendent, in his or her sole discretion, may

issue an order eliminating or reducing detention credits to an appropriate level. Any such facility shall not be eligible to reapply for credit adjustments for a period of 12 months following any credit reduction or elimination ordered by the superintendent.

(K) *Land alteration.* The issuance of any building permit or other action which results in land alteration with respect to a property receiving any one or more credits under this section shall be cause for an adjustment, as appropriate, of the credits to which the owner may be entitled. The property owner shall have the obligation of informing the department of any such changes in the manner prescribed.

(Ord. 77-01 passed 1-10-02)

' 51A.10 STORMWATER REVENUE FUND.

(A) All revenues earned and fees collected for stormwater service, including but not limited to drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds, shall be deposited in an account entitled "City of Anderson Stormwater Revenue Fund" and shall be subject to the provisions of I.C. 36-9-23, as amended.

(B) Disbursements from this account shall be authorized by the Board of Public Works and, as required by law, the Common Council. Such disbursements shall be used exclusively for the operation, maintenance and improvement of the city's stormwater system.

(C) Funds from this account shall not revert to any other city utilities or the General Fund of the city and may not be transferred for any other purpose. To the extent that there are outstanding revenue bonds of the city issued pursuant to the provisions of I.C. 36-9-23, as amended, revenues deposited in the Stormwater Revenue Fund shall be subject to the covenants contained in the ordinance or ordinances authorizing such outstanding bonds.

(Ord. 77-01 passed 1-10-02)

' 51A.11 LIEN ON PREMISES.

Delinquent charges for stormwater services and applied penalties, recording fees and service charges constitute a lien upon the property and may be collected in accordance with the provisions of I.C. 36-9-23-32 and 36-9-23-33.

(Ord. 77-01 passed 1-10-02)

' 51A.99 VIOLATIONS, ENFORCEMENT AND PENALTIES.

(A) Failure to pay a stormwater user fee when due shall constitute a violation of this chapter, which shall be enforced by the superintendent and such deputies as the superintendent may appoint for such purposes. Violations by any non-residential user under this requirement shall be subject to a fine of up to \$2,500 per day and shall be held responsible for the amount of the outstanding bill in lieu of a collection action and assessment of charges set out in ' 51A.07(C) through (E) or lien procedures under ' 51A.11.

(B) In order to protect the integrity of the stormwater utility of the city, it is determined to be a violation of this chapter to permit, allow or engage in the dumping or disposal of materials other than stormwater into the city's separate stormwater system. Any user found in violation of this prohibition shall be subject to a fine of up to \$2,500 per day. In addition, that user may also be held responsible for any costs incurred by the city in rectifying a situation of pollution to the waterways of the city and for repairing any damage to a public stormwater facility or the stormwater system.

(C) It shall be a violation of this chapter to permit, allow or engage in the discharge of domestic sewage or industrial waste into any waterway of the city, including but not limited to the White River, any of its tributaries or streams or any streets, storm sewers or drains, ditches or drainage ways leading to any such waterway. Any user found in violation of

this prohibition shall be subject to a fine of up to \$2,500 per day. In addition, that user may also be held responsible for any costs incurred by the city in rectifying a situation of pollution to the waterways of the city and for repairing any damage to a public stormwater facility or the stormwater system. This prohibition shall not apply with respect to the combined sewers of the city to actions taken or not taken by the City, the Board or the Department or any officer or employee of the same acting in their official capacity.

(D) It shall be a violation of this chapter to store polluting substances, as identified by the United States Environmental Protection Agency or the Indiana Department of Environmental Management, in a manner which violates any federal, state or local statute, ordinance or regulation relating to the protection of the public health, safety and welfare or environment, when such storage is shown to have the potential of allowing discharge to any waterway, including but not limited to the White River, any of its tributaries or streams or any streets, storm sewers or drains, ditches or drainage-ways leading to any such waterway. Any user found in violation of this prohibition shall be subject to a fine of up to \$2,500 per day. In addition, that user may also be held responsible for any costs incurred by the city in rectifying a situation of pollution to the waterways of the city and for repairing any damage to a public stormwater facility or the stormwater system.

(E) Any other violation of this chapter by a non-residential property owner shall be subject to a fine of up to \$2,500 per day. In addition, the violating party may also be held responsible for any costs incurred by the city in rectifying a situation of pollution to the waterways of the city and for repairing any damage to a public stormwater facility or the stormwater system.

(F) Whenever the superintendent or any such deputy shall deem it appropriate to charge any person with violation(s) of this chapter, he shall issue to such person a notice of violation and/or summons, which

shall be processed according to the provisions of I.C. 34-28-5, or may employ administrative remedies in accordance with I.C. 36-1-6-9 and the municipal code of the city.

(G) Each day that such violation(s) or non-compliance continues shall constitute a separate offense. Any fine assessed by the court shall be deemed a civil judgment.

(H) The remedies of the Department, the Board of Public Works and the city enumerated in this chapter shall not be exclusive and shall be deemed to be in addition to all other remedies which the Department, the Board of Public Works and the city may have at law or equity.

(Ord. 77-01 passed 1-10-02)

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