

**BOARD OF COMMISSIONERS
DEARBORN COUNTY, INDIANA**

ORDINANCE 2024-- 011

**ORDINANCE TO ADOPT STORMWATER MANAGEMENT
REQUIREMENTS AND STANDARDS PERTAINING TO
MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

WHEREAS, Dearborn County, Indiana has been designated a Municipal Separate Storm Sewer System (MS4) by the Indiana Department of Environmental Management (IDEM);

WHEREAS, said MS4 designation requires Dearborn County adopt a Stormwater Management Ordinance and a Stormwater Technical Standards Manual to regulate stormwater runoff in the unincorporated areas of Dearborn County, Indiana;

WHEREAS, the Dearborn County, Indiana Stormwater Management Ordinance is attached to this Ordinance and is marked as Exhibit "A";

WHEREAS, the Dearborn County, Indiana Stormwater Technical Standards Manual shall be presented to the Board of Commissioners for approval, upon recommendation of the Dearborn County Technical Review Committee, at a later date; and

WHEREAS, the Hidden Valley Lake Subdivision was previously designated an MS4 by IDEM; therefore, the Stormwater Management Ordinance and the Stormwater Technical Standards Manual adopted herein shall not apply to the Hidden Valley Lake Subdivision.

NOW, THEREFORE, BE IT ORDAINED by the Dearborn County Board of Commissioners as follows:

- 1. The following shall be added to the Dearborn County, Indiana Code of Ordinance as a new Chapter:**

TITLE XV: LAND USAGE

CHAPTER 156: MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)

§ 156.01 ADOPTION BY REFERENCE

The Dearborn County, Indiana Stormwater Management Ordinance, as the same was approved by the Board of Commissioners on the 16th day of July, 2024 and thereafter may be

amended from time to time, and the Dearborn County, Indiana Stormwater Technical Standards Manual, as the same may be approved by the Dearborn County, Indiana Board of Commissioners and thereafter amended from time to time, are hereby adopted by reference and made a part of this Code as if the same were set forth herein.

§ 156.02 CONFLICTS

Should there be a conflict between the Stormwater Management Ordinance, Stormwater Technical Standards Manual, and/or any other Ordinance of Dearborn County, Indiana with any Federal, State, or local law, regulation, standard, ordinance, or the like, the more stringent of said laws, regulations, standards, ordinances, or the like shall govern.

2. This Ordinance shall take effect after publication of the same in accordance with Indiana Code § 5-3-1 as required by Indiana Code § 36-2-4-8(b)(2) and after approval of the Dearborn County, Indiana Stormwater Technical Standards Manual by the Board of Commissioners.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Dearborn County, Indiana this the 16th day of July, 2024.

**BOARD OF COMMISSIONERS
DEARBORN COUNTY, INDIANA**

JIM THATCHER, President



RICK PROBST, Member

ATTEST:



ALLEN GOODMAN, Member

**CONNIE FROMHOLD
County Auditor**

This Ordinance prepared by: Andrew D. Baudendistel #28212-15, County Attorney, VOTAW & SCHWARZ, 60 East High Street, Lawrenceburg, Indiana 47025. Phone (812) 537-4500. Fax (812) 539-4500.

Exhibit A

DEARBORN COUNTY, INDIANA STORMWATER MANAGEMENT ORDINANCE

ADOPTED July 16, 2024

Abbreviated Table of Contents

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SECTION 1

General Information

(a) AUTHORITY AND TITLE

This Ordinance is required in accordance with statutory authority granted to Dearborn County, Indiana under "Home Rule" (Indiana Code § 36-1-3) and further is required by Phase II of the National Pollutant Discharge Elimination System Stormwater program (40 CFR Parts 9, 122, 123, and 124; December 8, 1999) authorized by the 1987 amendments to the Clean Water Act, the Indiana Department of Environmental Management's (IDEM) Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP), and the Indiana Department of Environmental Management's Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this Ordinance regulates:

1. Discharges of prohibited non-stormwater flows into the storm drain system.
2. Stormwater drainage improvements related to development of lands located within the unincorporated areas, excluding the Hidden Valley Lake Subdivision, of Dearborn County, Indiana.
3. Drainage control systems installed during new construction and grading of lots and other parcels of land.
4. Stormwater, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity.
5. Stormwater discharges from construction support activities directly related to construction sites subject to this Ordinance.
6. Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
7. The design, construction, and maintenance of stormwater drainage facilities and systems.
8. The design, construction, and maintenance of stormwater quality facilities and systems.
9. The design, construction, and maintenance of new dams.
10. The development downstream of existing dams.
11. Development within floodplains, floodways, fluvial erosion hazard corridors, and bluff zones.

This Ordinance shall be known and may be cited as the Dearborn County Stormwater Management Ordinance. Once adopted, this Ordinance will supersede any conflicting ordinances previously adopted by Dearborn County.

This Ordinance shall apply to any actual or suspected illicit discharge, development, and/or construction plan that is submitted to Dearborn County for permit after the date of passage. Any plans submitted to any Department prior to the passing of this Ordinance shall be subject to all previously approved ordinances and regulations in existence at time of filing.

(b) APPLICABILITY AND EXEMPTIONS

This Ordinance shall regulate all development and redevelopment occurring within the unincorporated areas, excluding the Hidden Valley Lake Subdivision, of Dearborn County. No building permit shall be issued, and no land disturbance started for any construction in a development, as defined in Appendix A, until the plans required by this Ordinance for such construction have been accepted in writing by Dearborn County. With the exception of the requirements of Section 2 and Section 6(d) of this Ordinance, single-family dwelling houses and duplexes in accepted subdivisions, and land-disturbing activities affecting less than one (1) acre of area shall be exempt from the requirements of this Ordinance. Also

exempt from this Ordinance shall be agricultural land-disturbing activities unless specific to illicit discharges, dumping, or related.

In addition to the requirements of this Ordinance and its companion Stormwater Technical Standards Manual, compliance with all applicable ordinances of Dearborn County as well as with applicable Federal, State of Indiana, and other Local statues and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available. Dearborn County capital improvement projects shall be exempt from obtaining local permits but are expected to meet all applicable technical requirements of this Ordinance and the Dearborn County Stormwater Technical Standards Manual. In case of conflicts between the requirements contained in this Ordinance and requirements contained in other regulations, the more restrictive shall prevail.

Any construction project which has had its final drainage plan accepted by the Dearborn County within a two-year period prior to the effective date of this Ordinance shall be exempt from all requirements of this Ordinance that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in Section 2 of this Ordinance.

The Dearborn County Technical Review Committee, as established by Article 2, Section 215 of the Dearborn County Zoning Ordinance, is delegated with the authority to increase, modify, grant exemptions, and/or waive certain requirements of this Ordinance and its associated technical standards document when supported by sound engineering community planning practices. The Dearborn County Technical Review Committee is further delegated with the authority to modify the Dearborn County Stormwater Technical Standards Manual as it deems necessary by majority vote of said Committee. The Dearborn County Technical Review Committee shall provide written notice to the Dearborn County Board of Commissioners of any amendment(s) to the Dearborn County Technical Standards Manual within ten (10) days of the adoption of said amendment(s). A pre-submittal meeting with Dearborn County may be requested by the applicant to discuss the applicability of various provisions of the Ordinance and its associated technical standards document with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of Dearborn County that may be based on the review of more detailed information and plans.

(c) FINDINGS

Dearborn County finds that:

1. Water bodies, roadways, structures, and other property within Dearborn County or its planning jurisdiction boundary are at times subjected to flooding;
2. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;
3. Land development alters the hydrologic response of watersheds, and when not properly designed and built results in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, adverse impacts to habitat and natural resources, and increased sediment transport and deposition;
4. Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;
5. Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within Dearborn County will, absent reasonable regulation and control, adversely affect Dearborn County's water bodies and water resources;

6. Pollutant contributions from illicit discharges within Dearborn County will, absent reasonable regulation, monitoring, and enforcement, adversely affect Dearborn County's water bodies and water resources;
7. Stormwater runoff, soil erosion, non-point source pollution, and illicit discharges can be controlled and minimized by the regulation of stormwater management;
8. Adopting and implementing the standards, criteria, and procedures contained and referenced in this Ordinance will reduce deleterious effects of stormwater runoff and illicit discharges;
9. Adopting this Ordinance is necessary for the preservation of the public health, safety, and welfare, for the conservation of natural resources, and for compliance with certain State and Federal regulations.

(d) PURPOSE

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of Dearborn County through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve, and promote the orderly development of land and water resources within Dearborn County. This Ordinance establishes methods for managing the quantity and quality of stormwater entering into the stormwater system associated with developments and illicit discharges in order to comply with State and Federal regulations. The objectives of this Ordinance are:

1. To reduce the hazard to public health and safety caused by excessive stormwater runoff.
2. To regulate the contribution of pollutants to the storm system from construction site runoff.
3. To regulate the contribution of pollutants to the storm system from runoff from new development and re-development.
4. To prohibit illicit discharges into the storm system.
5. To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Ordinance.

(e) ABBREVIATIONS AND DEFINITIONS

For the purpose of this Ordinance, the abbreviations and definitions provided in Appendix A shall apply.

(f) RESPONSIBILITY FOR ADMINISTRATION

Dearborn County shall administer, implement, and enforce the provisions of this Ordinance. The Dearborn County MS4 Coordinator and/or their designee is hereby granted the authority to enforce this Ordinance in conjunction with any and all Dearborn County departments and/or agencies to assist with the enforcement of this Ordinance. Additionally, powers granted or duties imposed upon the Dearborn County MS4 Coordinator may be delegated in writing by Dearborn County to other qualified persons or entities acting in the beneficial interest of or in the employ of Dearborn County as needed.

(g) INTERPRETATION

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except those words and phrases defined in Appendix A. Technical words and technical phrases that are not defined in this Ordinance, but which have acquired particular meanings in law or in technical usage, shall be construed according to such meanings and industry standards.

(h) SEVERABILITY

The provisions of this Ordinance are hereby declared severable, and if any court of competent jurisdiction should declare any part or provision of this Ordinance invalid or unenforceable, such invalidity or unenforceability shall not affect any other part or provision of this Ordinance.

(i) DISCLAIMER OF LIABILITY

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by man-made or natural causes. This Ordinance does not imply that land uses permitted will be free from stormwater damage. This Ordinance shall not create liability on the part of Dearborn County or any elected official, board member, officer, representative, agent, or employee thereof, for any damage that may result from reliance on this Ordinance or on any administrative decision lawfully made there under.

The words "approve" and "accept", and their common derivations as used in this Ordinance in relation to plans, reports, calculations, and permits shall mean that Dearborn County has reviewed the material produced and submitted by the applicant or their agent(s) for general compliance with this Ordinance and Dearborn County Stormwater Technical Standards Manual, and that such compliance would qualify the applicant to receive a Stormwater Management Permit. Such an "approval" or "acceptance" is based on the assumption that the design engineer has followed all appropriate engineering methods in the design. Situations may arise where designs and construction practices must go beyond the requirements of these regulations in order to adequately protect public safety and the environment. Any stormwater quantity (volume or flow) or quality problems associated with the project caused by poor construction and/or poor engineering design or judgment, either on-site or off-site, are the responsibility of the developer and the design engineer.

Consideration, design, construction, and maintenance of safety measures for proposed or existing stormwater facilities shall be the responsibility of the developer, applicant, and/or the property owner. Dearborn County and its elected officials, board members, officers, representatives, agents, and employees shall not be responsible for maintenance nor liable for any accidents.

SECTION 2

Prohibited Discharges and Connections

(a) APPLICABILITY AND EXEMPTIONS

This Section shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of Dearborn County, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.

Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this Section unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are *not* included in this exemption.

Any non-stormwater discharge permitted under an NPDES permit, waiver (unless the waiver is solely based on point source considerations, still allowing non-point source discharge of a pollutant), or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for the subject discharge to the storm drain system, is also exempted from this Section.

(b) PROHIBITED DISCHARGES AND CONNECTIONS

No person shall discharge to a Municipal Separate Storm Sewer System (hereinafter referred to as "MS4") conveyance, watercourse, or waterbody, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater, through the use of best management practices (BMP's).

Concrete washout material must be properly contained within an appropriate practice and any waste material properly disposed of.

Dearborn County is authorized to require dischargers to implement pollution prevention measures, utilizing BMP's necessary to prevent or reduce the discharge of pollutants into Dearborn County's stormwater drainage system.

(c) EXEMPTED DISCHARGES AND CONNECTIONS

Notwithstanding other requirements in this Ordinance, the following categories of non-stormwater discharges or flows are exempted from the requirements of this Section:

1. Water line and hydrant flushing for maintenance;
2. Discharges from potable water sources;
3. Discharges from emergency firefighting activities;
4. Landscape irrigation and lawn watering;
5. Diverted streamflows;

6. Rising ground waters;
7. Irrigation water;
8. Springs;
9. Flows from riparian habitats and wetlands;
10. Naturally introduced detritus (e.g. leaves and twigs);
11. Uncontaminated groundwater infiltration;
12. Uncontaminated pumped ground water;
13. Footing, foundation, and crawl space drains;
14. Water from crawl space pumps;
15. Uncontaminated condensate from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids;
16. Water from residential or non-commercial car washing by community organizations used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
17. Dechlorinated/debromated residential swimming pool discharges not including discharges from saltwater swimming pools;
18. Excess uncontaminated storm sewer cleaning water not collected by vacuum truck;
19. Pavement wash water, provided spills or leaks of toxic or hazardous materials have not occurred and where detergents are not used;
20. Routine external building washdown water that does not use detergents.

(d) STORAGE OF HAZARDOUS OR TOXIC MATERIAL

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

(e) PRIVATE PROPERTY MAINTENANCE DUTIES

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries, free of trash, debris, and other obstacles that would pollute, contaminate, or significantly impede the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(f) SPILL REPORTING

Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform Dearborn County concerning the discharge. A written report concerning the discharge shall be filed with Dearborn County and IDEM, by the dischargers, within five (5) days. The written report shall specify:

1. The composition of the discharge and the cause thereof;
2. The date, time, and estimated volume of the discharge;
3. All measures taken to clean up the accidental discharge;
4. All measures proposed to be taken to prevent any recurrence;

5. The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter, if a different person.

A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this Section. This requirement does not relieve discharger from notifying other entities as required by state and/or federal regulations.

(g) INSPECTIONS AND MONITORING

Dearborn County has all authority to enter upon public and/or private property to conduct inspections and monitoring in accordance with all applicable Federal, State, and local laws, statutes, rules, and/or regulations. Pursuant to the Dearborn County MS4 GP, this authority includes, but is not necessarily limited to, the following:

1. Storm Drainage System

Dearborn County has the authority to periodically inspect the portion of the storm drainage system under Dearborn County's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

2. Potential Polluters

If, as a result of a storm drainage system inspection, a discharger is suspected of an illicit discharge, Dearborn County may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow Dearborn County's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. Dearborn County or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Identified illicit connections or discharges shall be subject to enforcement action as described in Section 7 of this Ordinance.

3. New Development and Re-Development

Following the final completion of construction and the receipt of as-built drawings by Dearborn County, Dearborn County has the authority to inspect any new development and/or re-development sites to verify that all on-site stormwater conveyances and connections to the storm drainage system remain in compliance with this Section.

SECTION 3

Stormwater Quantity Management

(a) APPLICABILITY AND EXEMPTIONS

The storage and controlled release of excess stormwater runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the areas of Dearborn County subject to this Ordinance. Dearborn County, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization. Additional potential waivers regarding the detention requirements are provided under subsection (b) of this Section, below.

(b) POLICY ON STORMWATER QUANTITY MANAGEMENT

It is recognized that most streams and drainage channels serving Dearborn County do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess stormwater runoff as well as compensation for loss of floodplain storage shall be required for all developments and redevelopments (as defined in Appendix A) located within Dearborn County. Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, policy on dams and levees, policy on Fluvial Erosion Hazard corridors, and compensatory floodplain storage rates are detailed in the Dearborn County Stormwater Technical Standards Manual.

Due to unknowns regarding the future development patterns and the associated proposed stormwater quantity management systems within a watershed, it is the policy of Dearborn County to discourage direct release of runoff from a new development or redevelopment without providing detention. However, in rare circumstances, where a comprehensive watershed-wide hydrologic study or watershed plan of a major stream (not a "beat the peak" analysis) adopted by Dearborn County substantiates the benefits of (or allows for) direct release for a proposed development located adjacent to a major stream, the detention requirements set in this Ordinance may be waived. Other special circumstances when such a waiver may be considered by Dearborn County include situations where the design of a regional pond has already taken into account the provision of direct release in certain areas in the watershed.

(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the Dearborn County Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.

(d) DRAINAGE EASEMENT REQUIREMENTS

All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way shall be placed within a drainage easement. There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise accepted by Dearborn County. Additional easement requirements along stormwater conveyance systems are contained in the Dearborn County Stormwater Technical Standards Manual.

All drainage improvements performed relative to the conveyance of stormwater runoff and the perpetual maintenance thereof, within the latter easements, shall be the responsibility of the owner or homeowner association.

(e) PLACEMENT OF UTILITIES

No utility company may disturb existing storm drainage facilities without the consent of the Dearborn County Highway Department, whose decision may be appealed to the Dearborn County Board of Commissioners. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in Section 7 of this Ordinance.

(f) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

After the approval of the Stormwater Management Permit by Dearborn County and the commencement of construction activities, Dearborn County has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this Section, the Dearborn County Stormwater Technical Standards Manual, Design and Construction Standards, and the terms and conditions of the approved permit.

Dearborn County also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in addition to any prescribed Operation & Maintenance procedures, and shall not be subsequently altered, revised, or replaced except as approved by Dearborn County. If deficiencies are found during the inspection, the owner of the facility will be notified by Dearborn County and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, Dearborn County will undertake the work and collect from the owner using lien rights if necessary.

Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved.

Stormwater conveyance facilities may be donated to Dearborn County, or other units of government designated by Dearborn County, for ownership and permanent maintenance, provided Dearborn County or the other governmental unit is willing to accept ownership and responsibility of the donated stormwater conveyance facilities. Acceptance of ownership of the donated stormwater conveyance facilities must be approved by the Dearborn County Board of Commissioners in writing.