ORDINANCE #18, 2024

AN ORDINANCE AMENDING TEXT OF THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF VALPARAISO

WHEREAS, a petition to amend the Valparaiso Unified Development Ordinance (UDO), was presented by Plan Commission staff on behalf of the Valparaiso Plan Commission (the "Plan Commission"); and

WHEREAS, the Plan Commission gave notice and held a public hearing on the proposed amendments on June 4, 2024 according to IC 5-3-1; and

WHEREAS, the general public was given opportunity to comment on the proposed amendments; and

WHEREAS, on July 2, 2024, the Plan Commission voted to recommend the approval of the proposed amendments by a 7-0 vote; and

WHEREAS, the Plan Commission certified its recommendation to the City Common Council on July 9, 2024.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Valparaiso:

1. That text in Article 2, Permitted Uses and Supplemental Standards; Article 7, Stormwater Management; Article 13, Nonconformities; Article 15, Permits and Procedures; and Article 18, Definitions of the Unified Development Ordinance be amended as described in Exhibit A; and
2. That this ordinance be in full force and effect from and after its adoption and approval by the Mayor.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a vote of 5 - 2 of all members present and voting on this 12th day of August, 2024.

Jon Costas, Mayor

ATTEST:

Holly Taylor, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 12th day of August, 2024, at 7:48 o'clock p.m.

Holly Taylor, Clerk-Treasurer

This Ordinance approved and signed by me this 12th day of August, 2024, at 7:48 o'clock p.m.

Jon Costas, Mayor

ARTICLE 7 STORMWATER MANAGEMENT

DIVISION 7.100 ~~PURPOSE AND APPLICABILITY~~GENERAL INFORMATION

Sec. 7.101 Authority and Title

A. **Authority**. This Article of the UDO is adopted in accordance with statutory authority granted to the City under its "Home Rule" authority, ~~as well as in accordance with the "Indiana Drainage Code",~~ and further is required by ~~Indiana Code (IC) 36-9-28.5; Indiana Code (IC) 36-9-27-69.5;~~ Phase II of the National Pollution Discharge Elimination System (NPDES) Stormwater program (~~FR Doc. 99-29181~~ 40 CFR Parts 9, 122, 123, and 124; December 8, 1999) authorized by the ~~1972~~ 1987 amendments to the Clean Water Act; the Indiana Department of Environment Management's (IDEM) ~~Rule 13 (327 IAC 15-13)~~Municipal Separate Storm Sewer System (MS4) General Permit (MS4GP); and the Indiana Department of Environmental Management's ~~Rule 5 (327 IAC 15-5)~~ Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this Article regulates:

1. Discharges of prohibited non-stormwater flows into the stormwater drainage system;
2. Stormwater drainage improvements related to development of lands located within the City;
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. ~~3.~~Stormwater discharges from construction support activities directly related to construction sites subject to this ordinance;
6. ~~4.~~Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land;
7. ~~5.~~The design, construction, and maintenance of stormwater drainage facilities and systems;
8. ~~6.~~The design, construction, and maintenance of stormwater quality facilities and systems; and
9. ~~7. Land disturbing activities affecting wetlands.~~

B. **Title**. This Article shall be known and may be cited as the City of Valparaiso Stormwater Management Ordinance.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.102 Applicability and Exemptions

~~A. **Applicability**. This Article shall regulate all development and redevelopment occurring within the City, falling under the jurisdiction of the City of Valparaiso government and any significant discharge into the City's stormwater conveyance facilities.~~

~~B. **Required Compliance**. In addition to the requirements of this Article, compliance with the requirements set forth in other articles of this UDO is also necessary. Compliance with all applicable ordinances of the City, and all applicable Federal or State of Indiana statutes and regulations is required. Unless otherwise stated, all other specifications referred to in this Article shall be the most recent edition available.~~

~~C. **Applicable to City**. The City's public works projects are expected to meet all applicable technical requirements of this Article and the City's Stormwater Technical Standards Manual.~~

~~D. **Determination of Applicability**. A pre-application conference (see **Sec. 15.302, Pre-Application Conference**), with the City Engineer may be requested by the applicant to discuss the applicability of various provisions of the Article 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 the City Engineer that may be based on the review of more detailed information and plans.~~

~~Effective on: 6/22/2015~~

A. **Applicability.** This Article shall regulate all development and redevelopment occurring within the City of Valparaiso. No Site Permit shall be issued and no land disturbance started for any construction in a development, as defined in **Article 18, Definitions**, until the plans required by this Ordinance for such construction have been accepted by the City Engineer.

B. **Exemption.** With the exception of the requirements of **Division 7.200 Prohibited Discharges and Connections**, and **Sec. 7.604 Review of Individual Lot**, of this Ordinance, land-disturbing activities affecting less than 3,000 square feet of area shall be exempt from the requirements of this Ordinance, though a Site Permit may still be required as stated in **Sec. 15.202 C. Site Permit**.

Also exempt from this Ordinance shall be agricultural land-disturbing activities.

Any construction project which has had its final drainage plan accepted by the City Engineer within a 2-year period prior to the effective date of this Ordinance shall be exempt from all requirements of this Ordinance, with the exception of the requirements of **Division 7.400, Stormwater Pollution Prevention for Construction Sites**, and applicable sections of **Division 7.600, Permits Requirements and Procedures**, 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 **Division 7.200, Prohibited Discharges and Connections**.

C. **Required Compliance.** In addition to the requirements of this Ordinance and its companion Stormwater Technical Standards Manual, compliance with all applicable ordinances of City of Valparaiso 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. City of Valparaiso capital improvement projects shall be exempt from obtaining a permit, but are expected to meet all applicable technical requirements of this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual. If the project site is located within a Porter County Regulated Drain Watershed, the applicant will need to check with the Porter County Surveyor's Office to learn if additional Surveyor's Office requirements specific to that regulated drain would apply to the site.

D. **Conflicting Requirements.** In case there are conflicts between the requirements contained in this Ordinance and applicable requirements contained in other regulatory documents referenced above, the most restrictive shall prevail.

E. **Authority and Determination of Applicability.** The City of Valparaiso has the authority to modify, grant exemptions, and/or waive any and all the requirements of this Ordinance and its associated technical standards document. A pre-submittal meeting with the City Engineer 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 the City Engineer that may be based on the review of more detailed information and plans.

~~A.—~~

Sec. 7.103 Background

On December 8, 1999, Phase II of the National Pollutant Discharge Elimination System (NPDES) stormwater permit program, was published in the Federal Register. The NPDES program, as authorized by the 1972 amendments to the Clean Water Act, controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Phase II of NPDES stormwater program requires permit coverage for stormwater discharges from regulated small Municipal Separate Storm Sewer Systems (MS4s) and for small construction activity that results in

the disturbance of one ~~to five acres~~ acre or more. This Federal regulation went into effect March 10, 2003. In response to Phase II of NPDES, the Indiana Department of Environmental Management (IDEM) enacted Rule 13 (**327 IAC 15-13**) to meet the Federal guidelines set for MS4s, and revised Rule 5 (**327 IAC 15-5**) to cover all construction sites one acre or more. Under State and Federal regulations, the City is required to establish a regulatory mechanism for regulating stormwater quality management. In December 2021, IDEM replaced 327 IAC 15-5 (Rule 5) with an updated Construction Stormwater General Permit (CSGP) and 327 IAC 15-13 (Rule 13) with an updated MS4 General Permit (MS4GP).

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.104 Findings

The City ~~Council~~ of Valparaiso finds that:

A. **Flooding**. Water bodies, roadways, structures, and other property within, and downstream of the City are at times subjected to flooding;

B. **Flooding Danger**. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;

C. **Development Impact**. Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

D. **Erosion Impact**. 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;

E. **Adverse Affects**. Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the City will, absent reasonable regulation and control, adversely affect the City's water bodies and water resources;

F. **Pollutant Impact**. Pollutant contributions from illicit discharges within the City will, absent reasonable regulation, monitoring, and enforcement, adversely affect the City's water bodies and water resources;

G. **Control Measures**. Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;

H. **Affect of this Article**. Adopting the standards, criteria, and procedures contained and referenced in this Article and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges; and

I. **Necessity**. Adopting this Article is necessary for:

   1. The preservation of the public health, safety, and welfare;
   2. The conservation of our natural resources; and
   3. Compliance with State and Federal regulations.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.105 Purpose and Objectives

A. **Purpose.** The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the City of Valparaiso through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve, and promote the coordinated development of land and water resources within the City of Valparaiso. This Article establishes methods for managing the quantity and quality of stormwater entering into the stormwater drainage system in order to comply with State and Federal requirements.

B. **Objectives**. The objectives of this Article are to:

1. Reduce the hazard to public health and safety caused by excessive stormwater runoff;
2. Regulate the contribution of pollutants to the stormwater drainage system due to construction site runoff;
3. Regulate the contribution of pollutants to the stormwater drainage system and public waters from runoff from new development and redevelopment;
4. Prohibit illicit discharges into the stormwater drainage system; and
5. Establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Article.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.106 Abbreviations and Definitions

Refer to **Article 18, Definitions** for abbreviations and definitions.

Sec. 7.~~106~~107 Responsibility for Administration

The City Engineer shall administer, implement, and enforce the provisions of this Article through the Engineering Department, Board of Public Works and Safety, Valparaiso City Utilities Board, and Plan Commission, as set out in **Sec. 14.803, City Engineer**, as well as **Article 17, Enforcement, Interpretation, and Repealer**. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the City of Valparaiso to qualified persons or entities acting in the beneficial interest of or in the employ of the City of Valparaiso.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.~~107~~108 Conflicting Ordinances and Requirements

The provisions of this Article shall be deemed as additional requirements to the minimum standards required by other City ordinances, and as supplemental requirements to Indiana's ~~Rule 5~~ CSGP and MS4GP regarding Stormwater Discharge Associated with ~~Construction Activity (327 IAC 15-5)~~ construction sites, and ~~Indiana's Rule 13 regarding Stormwater Runoff Associated with~~ Municipal Separate Storm Sewer System (MS4) conveyances ~~(327 IAC 15-13)~~. In case of conflicting requirements, the most restrictive shall apply.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/22/2015~~

Sec. 7.~~108~~109 Severability

The provisions of this Article are hereby declared severable, as set out in **Sec. 17.301, Severability**.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.~~109~~110 Disclaimer of Liability

The degree of protection required by this Article 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 and/or stormwater quality may be altered by man-made or natural causes. This Article does not imply that land uses permitted will be free from stormwater damage. This Article shall not create liability on the part of the City Council, Valparaiso City Utilities Board, Plan Commission, City Engineer, or any officer, representative, or employee thereof, for any damage which may result from reliance on this Article or on any administrative decision lawfully made in accordance with this Article.

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 City Engineer has reviewed the material produced and submitted by the applicant or his/her agents for general compliance with this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual, and that such compliance would qualify the applicant to receive a stormwater management approval or permit. Such an "approval" or "acceptance" is based on the assumption that the project engineer has followed all appropriate engineering methods in the design. Any stormwater quantity (drainage) or water quality problems associated with the project caused by poor construction by the contractor and/or poor engineering design or judgment, either on-site or off-site, are the responsibility of the developer and the project 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. City of Valparaiso and its officials and representatives shall not be responsible for maintenance nor liability for any accidents.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

DIVISION 7.200 PROHIBITED DISCHARGES AND CONNECTIONS

Sec. 7.201 ~~Reference~~Applicability and Exemptions

~~Refer to the Code of Ordinances, **Chapter 54, Illicit / Illegal Discharges and/or Connections to Storm Drainage System,** for this Division.~~

A. **Applicability.** This Division shall apply to all discharges, including illegal dumping, entering the stormwater drainage system under the control of the City of Valparaiso, 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 stormwater drainage system, illegal dumping, and contaminated runoff.

B. **Exemptions.** Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this Division 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 waste discharge order and other applicable laws and regulations, and provided that written approval has been granted for the subject discharge to the stormwater drainage system, is also exempted from this Division.

Sec. 7.202 Prohibited Discharges and Connections

No person shall discharge to a 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 (BMPs). The City Engineer is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs necessary to prevent or reduce the discharge of pollutants into the City of Valparaiso's stormwater drainage system.

Sec. 7.203 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 Division:

1. Water line and hydrant flushing for maintenance;
2. Irrigation water;
3. Uncontaminated footing, foundation, and crawl space drains;
4. Uncontaminated excess storm sewer cleaning water not collected by a vacuum truck;

5. Water from fire suppression activities;
6. Uncontaminated pumped ground water;
7. Springs;
8. Residential car washing;
9. Non-commercial car washing by community organizations;
10. External building washdown water without detergents;
11. Dechlorinated swimming pool discharges;
12. Uncontaminated groundwater infiltration;
13. Pavement wash waters provided spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used;
14. Uncontaminated condensate from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids

Sec. 7.204 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.

Sec. 7.205 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 retard 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.

Sec. 7.206 Spill Reporting

Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the City Engineer concerning the discharge. A written report concerning the discharge shall be filed with the City of Valparaiso 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, and all measures proposed to be taken to prevent any recurrence;
4. 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.

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 Division. This requirement does not relieve discharger from notifying other entities as required by State or Federal regulations.

Sec. 7.207 Inspections and Monitoring

A. **Stormwater Drainage System.** The City of Valparaiso, through Engineering Department and Valparaiso City Utilities, has the authority to periodically inspect the portion of the stormwater drainage system under the City of Valparaiso'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 stormwater drainage system. It could also include spot testing

of waters contained in the stormwater 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.

B. **Potential Polluters.** If, as a result of the stormwater drainage system inspection, a discharger is suspected of an illicit discharge, the properly identified representatives of the City of Valparaiso 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 the City of Valparaiso's representatives to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The City of Valparaiso's representatives 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 **Article 17, Enforcement, Interpretation, and Repealer.**

C. **New Development and Re-Development.** Following the final completion of construction and the receipt of as-built drawings by the City of Valparaiso, the City of Valparaiso's properly identified representatives have the authority to inspect new development and re-development sites to verify that all on-site stormwater conveyances and connections to the stormwater drainage system are in compliance with this Division.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/22/2015~~

DIVISION 7.300 STORMWATER QUANTITY MANAGEMENT

Sec. 7.301 Applicability and Exemptions

The storage and controlled release ~~rate~~ 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 City as set out in **Division 2.200, Uses by District**. The City Engineer, after thorough investigation and evaluation, may waive or reduce the requirement of controlled runoff for developments. Additional exemptions regarding the detention requirements are set out in **Sec. 7.302, Policy on Stormwater Quantity Management~~, Subsection A.5, Direct Release Provisions,~~** below.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/22/2015~~

Sec. 7.302 Policy on Stormwater Quantity Management

A. **Detention Policy.** It is recognized that most streams and drainage channels serving the City do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, ~~except for situations provided in Subsection 5, *Direct Release Provisions*, below,~~ 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 located within the City.

B. **Release Rate.** Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, and compensatory floodplain storage rates are detailed in the City of Valparaiso Stormwater Technical Standards.

C. **Direct Release.** Due to unknowns regarding the future development patterns and the associated proposed stormwater quantity management systems within a watershed, it is the policy of the City of Valparaiso 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 the City of Valparaiso 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 the City of Valparaiso 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.

1. *General Release Rates.* In general, the post-development release rates for developments up to and including the 100-year return period storm may not exceed 0.5 cfs per acre of development. For sites where the pre-development area has more than one outlet, the release rate should be computed based on pre-development discharge to each outlet point. The computed release rate for each outlet point shall not be exceeded at the respective outlet point even if the post development conditions would involve a different arrangement of outlet points.
2. *Site-Specific Release Rates for Sites with Depressional Storage.* For sites where depressional storage exists, the general release rates provided above may have to be further reduced. If depressional storage exists at the site, site-specific release rates must be calculated according to methodology described in the City's Stormwater Technical Standards Manual, accounting for the depressional storage by modeling it as a pond whose outlet is a weir at an elevation that stormwater can currently overflow the depressional storage area. Post development release rate for sites with depressional storage shall be the two-year pre-development peak runoff rate for the post-development 100-year storm. In no case shall the calculated site-specific release rates be larger than general release rates provided above. Also, note that for determining the post-development peak runoff rate, the depressional storage must be assumed to be filled unless the City Engineer can be assured, through dedicated easement, that the noted storage will be preserved in perpetuity.
3. *Management of Off-Site Runoff.* Runoff from all upstream tributary areas (off-site land areas) may be bypassed around the detention/retention facility without attenuation. Such runoff may also be bypassed through the detention/retention facility without attenuation, provided that a separate outlet system or channel is incorporated for the safe passage of such flows, i.e., not through the primary outlet of a detention facility. Unless the pond is being designed as a regional detention facility, the primary outlet structure shall be sized and the invert elevation of the emergency overflow weir determined according to the on-site runoff only. Once the size and location of primary outlet structure and the invert elevation of the emergency overflow weir are determined by considering on-site runoff, the 100-year pond elevation is determined by routing the entire inflow, on-site and off-site, through the pond. Note that the efficiency of the detention/retention facility in controlling the on-site runoff may be severely affected if the off-site area is considerably larger than the on-site area. As general guidance, on-line detention may not be effective in controlling on-site runoff where the ratio of off-site area to on-site area is larger than 5:1. Additional detention (above and beyond that required for the on-site area) may be required by the City Engineer when the ratio of off-site area to on-site area is larger than 5:1.
4. *Downstream Restrictions.* In the event the downstream receiving channel or storm sewer system is inadequate to accommodate the post-development release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system. Additional detention, as determined by the City Engineer, shall be required to store that portion of the runoff exceeding the capacity of the receiving storm sewers or watercourses. When such downstream restrictions are suspected, the City Engineer may require additional analysis to determine the receiving system's limiting downstream capacity. If the proposed development makes up only a portion of the undeveloped watershed upstream of the limiting restriction, the allowable release rate for the development shall be in direct proportion to the ratio of its drainage area to the drainage area of the entire watershed upstream of the restriction.
5. *Direct Release Provisions.* Due to unknowns regarding the future development patterns and the associated proposed stormwater quantity and quality management systems within a watershed, it is the policy of the City 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 adopted by the City Engineer (not a "beat the peak" analysis) 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 Article may be waived. Other special

circumstances when such a waiver may be considered by the City Engineer 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 or when the subject development is immediately next to a major stream that has a larger than 100 square miles drainage area.

B. **Grading and Building Pad Elevations.** Maximum yard slopes are 3:1 where soil has been disturbed during construction processes. Finished floor elevation must be no less than one foot above finished grade and a minimum of 18 inches above an adjacent top of curb elevation unless a written variance is granted by the City Engineer. For all structures located in the Special Flood Hazards Area (SFHA) as shown on the FEMA maps, the lowest floor elevations of all residential, commercial, or industrial buildings, shall be such that lowest floor elevation, including basement, shall be at the flood protection grade and therefore, have two feet of freeboard above the 100-year flood elevation. The lowest adjacent grade for residential, commercial, or industrial buildings outside a FEMA or IDNR designated floodplain shall have two feet of freeboard above the flooding source's 100-year flood elevation under proposed conditions, unless the flooding source is a rear-yard swale. When the flooding source is a rear-yard swale, the lowest adjacent grade for residential, commercial, or industrial buildings shall have two feet of freeboard above the 100-year flood elevation under proposed conditions. For areas outside a FEMA or IDNR designated floodplain, the lowest adjacent grade (including walkout basement floor elevation) for all residential, commercial, or industrial buildings adjacent to ponds shall be set a minimum of two feet above the 100-year pond elevation or two feet above the emergency overflow weir elevation, whichever is higher. In addition to the lowest adjacent grade requirements, any basement floor must be at least one foot above the permanent water level (normal pool elevation). The 100-year overflow paths throughout the development, whether shown on FEMA maps or not, must be shown as hatched area on the plans and 30 feet along the centerline of the flow path contained within permanent drainage easements. A statement shall be added to the plat that would refer the viewer to the construction plans to see the entire extent of overflow path as hatched areas. No fences or landscaping can be constructed within the easement areas that may impede the free flow of stormwater. These areas are to be maintained by the property owners or be designated as common areas that are to be maintained by the homeowners association. The lowest adjacent grade for all residential, commercial, or industrial buildings shall be set a minimum of one foot above the noted overflow path/ponding elevation, calculated based on all contributing drainage areas, on-site and off-site, in their proposed or reasonably anticipated land use and with storm pipe system assumed completely plugged. It shall be the property owners' responsibility to maintain the natural features on their lots and to take preventive measures against any and all erosion and/or deterioration of natural or manmade features on their lots.

C. **Acceptable Outlet and Adjoining Property Impact Policies.** Design and construction of the stormwater facility shall provide for the discharge of the stormwater runoff from off-site land areas as well as the stormwater from the area being developed (on-site land areas) to an acceptable outlet(s) (as determined by the City Engineer) having capacity to receive upstream (off-site) and on-site drainage. The flow path from the development outfall(s) to a regulated drain or natural watercourse (as determined by the City Engineer) shall be provided on an exhibit that includes topographic information. Any existing field tile encountered during the construction shall also be incorporated into the proposed stormwater drainage system or tied to an acceptable outlet. In addition, no activities conducted as part of the development shall be allowed to obstruct the free flow of flood waters from an upstream property. Where the outfall from the stormwater drainage system of any development flows through real estate owned by others prior to reaching a regulated drain or watercourse, no acceptance shall be granted for such drainage system until all owners of real estate and/or tenants crossed by the outfall consent, in writing, to the use of their real estate through a recorded easement. If an adequate outlet is not located on site, then off-site drainage improvements may be required. Those improvements may include, but are not limited to, extending storm sewers, clearing, dredging, and/or removal of obstructions to open drains or natural watercourses, and the removal or replacement of undersized culvert pipes as required by the City Engineer.

Ordinance No. 15, 2015

Effective on: 6/23/2015

Sec. 7.303 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 City's Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated in **Sec. 7.302, Policy on Stormwater Quantity Management**, above.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.304 Drainage Easement Requirements

A. **Easement requirements.** Easement requirements along stormwater conveyance systems are contained in the City of Valparaiso Stormwater Technical Standards Manual.

B. **Maintenance Responsibility.** All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way relative to the conveyance of stormwater runoff and the perpetual maintenance thereof shall be the responsibility of the owner or homeowner association.

C. **Easement Policy.** There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise accepted by the City Engineer.

D. **Porter County Regulated Drainage Easement.** Any outlet to, crossing, and/or encroachment of a Porter County Regulated Drainage Easement requires application and acceptance from the Porter County Drainage Board in accordance with the Indiana Drainage Code.

~~There shall be no trees or shrubs planted, nor any structures or fences erected, in any drainage easement, unless otherwise accepted in writing by the City Engineer. The following specific areas shall be included in a petition:~~

~~A. **Subdivisions.**~~

~~1. All new channels, drain tiles equal to or greater than 12 inches in diameter (no drain tiles shall be less than 12 inches in diameter), inlet and outlet structures of detention and retention ponds, and appurtenances thereto as required by this Division, that are installed in subdivisions requiring a site permit (see **Sec. 15.202, Administrative Permits**) shall be contained within a minimum 20 feet of drainage easement. New drain tiles refer to all sub-surface stormwater piping, tubing, tiles, manholes, inlets, catch basins, risers, etc.~~

~~2. New drain tile, 12 inches or larger in diameter, shall be placed in a 20-foot easement (10 feet from centerline on each side) and shall be designated on the record plat as "20-foot drainage easement." Wider easements may be required by the City Engineer when the depth of pipe is greater than six to 10 feet, depending on the pipe size.~~

~~3. A minimum of 25 feet from top of the bank on each side of a new channel shall be designated on the record plat as a drainage easement.~~

~~4. Rear-yard swales and emergency overflow paths associated with detention ponds shall be contained within a minimum of 20 feet width (10 feet from centerline on each side) of drainage easement.~~

~~5. A minimum of 25 feet beyond the actual footprint (top of the bank) of stormwater detention facilities shall be designated as drainage easement. A minimum 25-foot wide easement shall also be required as an access easement from a public right-of-way to the facility, unless the pond is immediately next to a public right-of-way.~~

~~6. The statutory 75-foot (each side) drainage easement for regulated drains already within the Porter County Regulated Drainage system may be reduced if the drain is reclassified by the County Surveyor as an urban drain.~~

~~7. Any crossing and/or encroachment of a regulated drainage easement requires application and acceptance from the Porter County Surveyor's office.~~

B. **Non-Subdivisions.** Where the City Engineer is responsible for maintenance of the drainage system, regulated drainage easements of 75 feet from the top of bank on each side of the channel or each side of the tile centerline must be dedicated to the City.

C. **Municipalities and Schools.** All new channels, swales, drain tiles, inlet and outlet structures of detention and retention ponds, and appurtenances thereto, as required by this Division, that are installed on municipal or school property will be maintained, repaired, and constructed by the entity. The design must meet the standards of this Article and the City Engineer for sizing and installation. Any off-site portion of the drainage system must be within easements and have clearly defined maintenance agreements.

Ordinance No. 15, 2015

Effective on: 6/23/2015

Sec. 7.305 Placement of Utilities

No utility company may disturb existing storm management facilities without the consent of the City Engineer. All existing drainage facilities shall have senior rights and Damage damage to said facilities shall result in penalties as set out in **Article 17, Enforcement, Interpretation, and Repealer**.

Ordinance No. 15, 2015

Effective on: 6/23/2015

Sec. 7.306 Structures Near County Regulated Drains

For regulated drains not located in platted subdivisions, unless otherwise accepted by the Porter County Drainage Board, no permanent structure (including fences) shall be constructed within 75 feet measured at right angles from the:

A. Existing top edge of each bank of a regulated open drain, as determined by the Porter County Drainage Board; or

B. Centerline of a tiled piped regulated drain, unless otherwise accepted by the Porter County Drainage Board. The Indiana Drainage Code may be consulted for further detail.

Ordinance No. 15, 2015

Effective on: 6/22/2015

Sec. 7.307 Inspection, Maintenance, Record Keeping, and Reporting

All storm sewers, structures, ditches, swales, culverts, and stormwater quality Best Management Practices shall be designed and constructed according to the requirements of the latest revision(s) of the design and construction standards provided by the City Engineer and sound engineering practice. They shall be designed to safely convey the appropriate design flows, provide the required water quality benefits, and to minimize maintenance and repair needs.

A. **Authority to Inspect.** After the approval of the Site Permit by the City Engineer and the commencement of construction activities, representatives from Valparaiso City Utilities and the City Engineer have the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this Division, the Stormwater Technical Standards Manual, Design and Construction Standards, and the terms and conditions of the approved permit. The City Engineer and the Valparaiso City Utilities also have 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.

B. **Maintenance Responsibility.** 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 the City Engineer. If deficiencies are found during the inspection, the owner of the facility will be notified by the City Engineer 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, the City of Valparaiso 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.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/22/2015~~

DIVISION 7.400 STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES

Sec. 7.401 Applicability~~, and~~ Exemptions~~, and Site Owner/Permit Holder Responsibilities~~

~~A. **Generally.** The project site owner must submit to the City Engineer, a Stormwater Pollution Prevention Plan (SWPPP) with detailed erosion and sediment control plans, as well as a narrative describing materials type and specification, handling and storage, and construction sequencing, as part of the construction plans and specifications. The project site owner/permit holder must implement the plan throughout the course of the construction until the project is terminated.~~

~~B.~~A. **Applicability**. This Division applies to the land disturbing activities set out below. Projects meeting the coverage requirements of ~~**327 IAC 15-5 (Rule 5)**~~**IDEM's CSGP** shall also be in compliance with ~~**327 IAC 15-5**~~ the requirements contained in that permit. Guidelines for calculating land disturbance are set out in **Sec. 7.403, Calculations and Design Standards and Specifications**.

1. Any project located within the corporate boundaries of the City that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of or impact of one (1) acre or more of total land area, without regard to minimum lot size in the applicable zoning district, which includes both new development and redevelopment;
2. Disturbances of less than one (1) acre of land that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more of land, without regard to the minimum lot size in the applicable zoning district, within the City; and
3. Land disturbing activities that involve land disturbance or impact of less than one (1) acre but equal to or greater than 3,000 square feet, without regard to minimum lot size in the applicable zoning district, and/or any disturbing activities with sites immediately adjacent to a storm sewer inlet, ditch, stream, wetland, or other watercourse, and any sites which are located on ground with a slope of six percent or greater.

~~C.~~B. **Exemptions**. The requirements under this Article do not apply to:

1. Land disturbing activities specifically exempted in writing by the Board of Public Works and Safety, or its authorized representative, because of conditions unique to the parcel proposed for development or lot that make the use of soil erosion and sediment controls unnecessary.
2. The following activities:
    a. Agricultural land disturbing activities; and
    b. Forest harvesting activities.
3. The following activities, provided other applicable State permits contain provisions requiring immediate implementation of soil erosion control measures:
    a. Landfills that have been issued a certification of closure under **329 IAC 10**;
    b. Coal mining activities permitted under **IC 14-34**; and

c. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under **329 IAC 10** that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

~~D. **Site Owner / Permit Holder Responsibilities.**~~

~~1. It will be the responsibility of the project site owner to complete a site permit application and ensure that a sufficient construction plan including a Stormwater Pollution Prevention Plan (SWPPP) is completed and submitted to the City Engineer in accordance with **Sec. 15.305, Stormwater Management Plans and Permitting Procedures**. It will be the responsibility of the project site owner and/or permit holder to ensure compliance with this Article during the construction activity and implementation of the construction plan, and in following and implementing all Best Management Practices. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this Division and Article.~~

~~2. An individual lot with land disturbance or impact less than one acre, located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the site permit approved for the larger project site. The site permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, these individual lots are required to obtain a site permit for each lot, in accordance with **Sec. 15.305, Stormwater Management Plans and Permitting Procedures**.~~

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.402 Policy on Stormwater Pollution Prevention

A. ~~**Design Principles.**~~ **Generally.** Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling.

B. **Principles.**

For a development or a project where land disturbance is expected to be one (1) acre or more, the developer or project owner must complete a Notice of Intent (NOI) letter, apply for a site permit from the City of Valparaiso, and submit to the City, a sufficient Stormwater Pollution Prevention Plan (SWPPP) which includes erosion and sediment control measures, materials handling procedures and construction sequencing, as part of a project's construction plans and specifications, in accordance with **Division 7.600, Permit Requirements and Procedure.**

An individual lot located within a larger permitted project site, regardless of the size of the lot, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the site permit approved for the larger project site. The site permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, the builders of these individual lots are required to submit individual lot permit application along with an Erosion and Sediment Control Plan for that individual lot prior to receiving a site permit. Details of the permitting process for individual lots and parcels are contained in **Division 7.600, Permit Requirements and Procedure**, and additional requirements for individual lots may be found in the City of Valparaiso Stormwater Technical Standards Manual.

For an individual lot or a project where land disturbance is 3,000 square feet or more but less than one (1) acre, and is not located within a larger permitted project site, an individual lot or project site plan including appropriate erosion and sediment control measures that are consistent with the City of Valparaiso Technical Standards is required prior to receiving a site permit.

The required IDEM general and implementation requirements that apply to all land-disturbing activities are contained in the City of Valparaiso Stormwater Technical Standards Manual.

C. **Site Owner / Permit Holder Responsibilities.**

It will be the responsibility of the project site owner to complete a site permit application and ensure that a sufficient construction plan is completed and submitted to the City Engineer in accordance with **Division 7.600, Permit Requirements and Procedure**. It will be the responsibility of the project site owner to ensure compliance with this Ordinance during the construction activity and implementation of the construction plan, and to notify the City Engineer upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the City Engineer. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this Division and this Ordinance.

~~A. The following principles apply to all land-disturbing activities and shall be considered in the preparation of a Stormwater Pollution Prevention Plan (SWPPP) within the City:~~

~~B. Minimize the potential for soil erosion by designing development that fits the topography and soils of the site. Deep cuts and fill in areas with steep slopes shall be avoided wherever and whenever possible, and natural contours shall be followed as closely as possible.~~

~~C. Existing natural vegetation shall be retained and protected wherever possible. Areas immediately adjacent (within 35 feet of the top of bank) to watercourses and lakes also shall be left undisturbed wherever possible. Un-vegetated or vegetated areas with less than 70 percent cover that are scheduled or likely to be left inactive for 15 days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.~~

~~D. The selection of soil erosion and sedimentation control measures shall be based on the size of the project, the frequency of climatic events likely to accelerate erosion, the season during which the project is being constructed, the potential for damage should erosion and sedimentation occur, and the requirements for proper maintenance.~~

~~E. Provision shall be made to accommodate the increased runoff caused by changed surface and soil conditions both during and after development. The length and steepness of designed slopes shall be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet. Methods for determining acceptable velocities are included in the City's Stormwater Technical Standards Manual.~~

~~F. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable and erosion resistant construction site access point (i.e., crushed stone, slag, aggregate, etc.) shall be provided at all points of construction traffic ingress and egress to the project site. Crushed stone, slag, and or aggregate shall be at least six inches deep from the surface elevation and such material shall be between three and five inches in diameter.~~

~~G. Appropriate measures shall be implemented to prevent wastes or unused building materials, including garbage, debris, packaging materials, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff or wind. Identification of the area where concrete truck washout is permissible must be clearly posted on the site. Only one washout location shall be allowed for each building site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable State statutes and regulations. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.~~

~~H. Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.~~

~~I. Any proposed detention basin shall be utilized during construction as a sediment basin to trap as much soil as possible during the land disturbing activity. Such basins shall be designed for this purpose, utilizing over excavation for temporary sediment storage, temporary perforated standpipes and/or stone filters as required by proper engineering design.~~

~~J. Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.~~

~~K. Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff.~~

~~L. **Sequencing of Activities and Improvements.**~~

~~M. All construction activities on a site shall be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.~~

~~N. Sediment basins, silt traps, and filters shall be installed prior to the beginning of construction to remove as much sediment as possible from runoff leaving the site or entering watercourses, wetlands, lakes, or reservoirs.~~

~~O. Permanent vegetation and erosion control structures shall be installed and temporary structures shall be removed prior to the issuance of final occupancy permits.~~

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.403 Calculations and Design Standards and Specifications

A. **Determining Total Area of Land Disturbance**. In calculating the total area of land disturbance, for the purposes of determining applicability of this Article to the project, the following guidelines shall be used:

1. Off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.

~~2. Strip developments will be considered as one project site.~~

~~3.~~2. To determine if multi-lot project sites are regulated by **Sec. 7.402, Policy on Stormwater Pollution Prevention**, of this rule, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:

a. For a single-family residential project site where the lots are one-half acre or more, without regard to the minimum lot size of the applicable zoning district, one-half acre of land disturbance must be used as the expected lot disturbance.

b. For a single-family residential project site where the lots are less than one half acre in size, the total lot must be calculated as being disturbed.

c. To calculate lot disturbance on all other types of project sites, such as industrial and commercial project sites, a minimum of one acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one acre in size, in which case the total lot must be calculated as being disturbed.

B. **Design Standards and Specifications**. The calculation methods, as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications set out in the "Indiana Stormwater Quality Manual", ~~or~~ the City's Stormwater Technical Standards Manual, and the product guidance/specifications of the manufacturer. The methods and procedures included in these ~~two manuals~~ references are in keeping with the above stated policy and meet the requirements of **IDEM's ~~Rule 5~~CSGP**.

The design requirements that would apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP are contained in the City of Valparaiso Stormwater Technical Standards Manual.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.404 Inspection, Maintenance, Record Keeping, and Reporting

A. **Authority to Inspect**. Following approval of the development plans and issuance of the site permit, and commencement of construction activities, representatives of the City Engineer and Valparaiso City Utilities have the authority to conduct inspections of the site to ensure full compliance with the provisions of this Article, the ~~Indiana Stormwater Quality Manual~~approved development plan, and the terms and conditions of the approved permit.

~~B. **Implementation and Maintenance**. The project site owner and/or permit holder is responsible for implementing and maintaining, in accordance with this Article, all measures necessary to adequately prevent polluted stormwater runoff. All erosion control measures shall be maintained throughout the course of the construction or until the growth of vegetation has made them unnecessary.~~

~~C.~~B. **Monitoring**. ~~For all the construction sites except those that involve less than one acre of land and are not located within larger permitted project sites,~~ For the projects meeting the coverage requirements of IDEM's CSGP, the following requirements in this Division also apply. ~~a~~ A self-monitoring program must be implemented by the project site owner and/or permit holder to ensure the Stormwater Pollution Prevention Plan is working effectively. A trained individual, acceptable to the City Engineer, shall monitor and manage project construction and stormwater activities, and complete the self-monitoring reports. ~~perform a written evaluation of the project site by the end of the next business day following each measurable storm event. There shall be one designated on-site person to complete such evaluations, maintain a storm log, and to be contacted in the event of any concerns. An alternate shall be identified in the event that the designated monitor is unavailable. If there are no measurable storm events within a given week, the site shall be monitored at least once in that week. Weekly inspections by the trained individual shall continue until the entire site has been stabilized and a Notice of Termination has been issued. The trained individual shall look at the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control measures, drainage structures, and construction materials storage/containment facilities, to ensure they are functioning properly. The trained individual shall also identify additional measures, beyond those originally identified in the Stormwater Pollution Prevention Plan, necessary to remain in compliance with all applicable statutes and regulations.~~ Details regarding the required monitoring activities are contained in the City of Valparaiso Stormwater Technical Standards Manual.

~~D. **Evaluation Reports**. The resulting self-monitoring reports must include:~~

~~1. The name of the individual performing the evaluation;~~

~~2. The date of the evaluation;~~

~~3. Problems identified at the project site; and~~

~~4. Details of maintenance, additional measures, and corrective actions recommended and completed.~~

C. **Adequacy**. The Stormwater Pollution Prevention Plan shall serve as a guideline for stormwater quality, but shall not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this Division, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the trained individual and/or the representative of the City Engineer and Valparaiso City Utilities throughout the course of construction for modified stormwater quality measures shall be implemented.

~~E.~~D. **Project Management Log**. A project management log must be maintained at the project site or in the possession of on-site individuals associated with the management and operations of the construction activities. Details regarding requirements related to the project management log are contained in the City of Valparaiso Stormwater Technical Standards Manual.

~~F.~~E. **Right to Request Records**. ~~Although self-monitoring reports do not need to be submitted to the City Engineer, the City Engineer has the right to request complete records of maintenance and monitoring activities involving stormwater pollution prevention measures. Upon request, all evaluation reports for the project site must be made available to the City Engineer, in an organized fashion, within 48 hours.~~ All evaluation reports must be made available to the City Engineer, in an organized fashion, within forty-eight (48) hours upon request. The Stormwater Pollution Prevention Plan and the project management log must be retained for at least three (3) years from the date the project permit is terminated.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

DIVISION 7.500 STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION

Sec. 7.501 Applicability, Exemptions, and Site Owner/Permit Holder Responsibilities

A. **Generally**. In addition to the requirements of **Division 7.400, Stormwater Pollution Prevention for Construction Sites**, the Stormwater Pollution Prevention Plan, which is to be submitted to the City Engineer as part of the site permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site.

B. **Applicability**. Any project located within the corporate boundaries of the City that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of or impact on one acre or more of total land area, is subject to the requirements of this Article, which includes both new development and redevelopment, and disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land, within the City. In addition, regardless of the amount of disturbance, the City Engineer reserves the right to require pre-treatment BMPs for proposed hot spot developments in accordance with provisions contained in the City of Valparaiso Stormwater Technical Standards Manual.

C. **Exemptions**. The requirements of this Article do not apply to the following activities:

1. Agricultural land disturbing activities;
2. Forest harvesting activities;
3. Construction activities associated with a single family residential dwelling disturbing less than five ~~5 acres~~ one (1) acre, when the dwelling is not part of a larger common plan of development or sale;
4. ~~Single family residential developments consisting of four or fewer lots;~~
5. ~~A single-family residential strip development where the developer offers for sale or lease without land improvements and the project is not part of a larger common plan of development of sale; or~~
6. ~~6.~~4. Individual building lots within a larger permitted project.
7. ~~7.~~5. Provided other applicable State permits contain provisions requiring immediate implementation of soil erosion control measures, the following activities do not apply:
    a. Landfills that have been issued a certification of closure under **329 IAC 10**;
    b. Coal mining activities permitted under **IC 14-34**; and
    c. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under **329 IAC 10** that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

D. **Site Owner / Permit Holder Responsibilities**. It will be the responsibility of the project site owner to complete a site permit application and ensure that a sufficient construction plan is completed and submitted to the City Engineer in accordance with ~~**Sec. 15.305, Stormwater Management Plans and Permitting Procedures.**~~

Division 7.600, Permit Requirements and Procedure. It will be the responsibility of the project site owner and/or permit holder to ensure proper construction and installation of all stormwater Best Management Practices (especially, the protection of post-construction stormwater BMPs during construction phase) in compliance with this Article and with the approved site permit, and to notify the City Engineer ~~with a sufficient notice of termination letter~~ upon completion of the project and stabilization of the site. However, all eventual property owners of stormwater quality management facilities meeting the applicability requirements must comply with the requirements of this Article and this UDO.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/22/2015~~

7.502 Policy on Stormwater Quality Management

A. **Generally**. It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and redevelopment continues in the City, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. ~~Through the use of Best Management Practices (BMPs), stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed.~~ The City has established a minimum standard that the measurement of the effectiveness of the control of stormwater quality will be based on the management of Total Suspended Solids (TSS). Through the use of appropriate Best Management Practices (BMPs), to treat the Water Quality Volume (WQv) or the Water Quality Flow (Qwq) stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed.

B. **Best Management Practices**. The project site owner must submit to the City Engineer, a Stormwater Pollution Prevention Plan (SWPPP) that shows placement of appropriate Best Management Practices (BMPs) from a pre-approved list of BMPs specified in the City's Stormwater Technical Standards Manual. The SWPPP submittal shall include an Operation and Maintenance Manual for all post-construction BMP(s) included in the project and a signed Maintenance Agreement providing for the long-term maintenance of those BMPs. The noted BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the City's Stormwater Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized; however, the burden of proof as to whether the performance (minimum 80 percent TSS removal) and ease of maintenance of such practices will be according to the guidelines provided in the City's Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMPs are provided in the City's Stormwater Technical Standards Manual.

C. **Special Practices for Highly Sensitive Uses**. Gasoline outlets and refueling areas must install appropriate practices (as noted under "Hot Spots" provision in the Technical Standards) to reduce lead, copper, zinc, and hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility. Discharges from new development and redevelopment sites will not be allowed directly into karst features without pre-treatment.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.503 Calculations and Design Standards and Specifications

A. **Means of Calculation**. Calculation of land disturbance shall follow the guidelines set out in **Sec. 7.403, Calculations and Design Standards and Specifications**.

B. **Required Compliance**. The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in ~~the Indiana Stormwater Quality Manual or~~ the City's Stormwater Technical Standards Manual. The methods and procedures included in ~~these two manuals~~ the referenced Standards are in keeping with the stated policy of this Article and meet or exceed the requirements of **IDEM's ~~Rule 13~~MS4GP**.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.504 Easement Requirements

All stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring, inspection, and general maintenance activities, ~~a 30-foot wide perimeter~~ adequate easement width, as detailed in the City of Valparaiso Stormwater Technical Standards Manual, beyond the actual footprint of the stormwater quality management facility, as well as a 30-foot wide access easement from a public right-of-way to each BMP, shall be provided, unless otherwise authorized by City Engineer.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

Sec. 7.505 Inspection, Maintenance, Record Keeping, and Reporting

A. **Authority to Inspect**. After the approval of the site permit by the City Engineer and the commencement of construction activities, representatives of the City Engineer and Valparaiso City Utilities have the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this Article, the approved Stormwater Pollution Prevention Plan, the City's Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.

B. **Required Operation and Maintenance**. Stormwater quality management facilities shall be maintained in good condition, in accordance with the operation and maintenance procedures and schedules listed in ~~the **Indiana Stormwater Quality Manual** or~~ the City's Stormwater Technical Standards Manual, ~~and the terms and conditions of the approved site permit~~ in addition to the designed and approved performance specifications for the facilities. Such facilities shall not be subsequently altered, revised, or replaced except ~~in accordance with the approved site permit, or in accordance with approved amendments or revisions in the permit~~ as approved by the City Engineer.

C. **Long-Term Responsibility**. Following construction completion, maintenance of stormwater quality facilities shall be the long-term responsibility of the facility's owner. Details regarding the required stormwater BMP Maintenance Agreement, and Operations and Maintenance (O&M) Manual are provided in the City of Valparaiso Stormwater Technical Standards Manual.

D. **Inspections**. The ~~City Engineer has~~ representatives of the City Engineer and Valparaiso City Utilities have the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quality facilities. ~~The inspections will follow the operation and maintenance procedures included in the City's Stormwater Technical Standards Manual and/or permit application for each specific Best Management Practice (BMP).~~ The inspection will cover physical conditions, available water quality storage capacity, and the operational condition of key facility elements. ~~Noted deficiencies and recommended corrective action will be included in an inspection report.~~ If deficiencies are found during the inspection, the owner of the facility will be notified by the City Engineer 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, the Valparaiso City Utilities Board will undertake the work and collect from the owner using lien rights if necessary.

~~Ordinance No. 15, 2015~~

~~Effective on: 6/23/2015~~

DIVISION 7.600 ~~DEVELOPMENT IN WETLANDS REGULATIONS~~PERMIT REQUIREMENTS AND PROCEDURES

Sec. 7.601 ~~Applicability and Exemptions~~Conceptual Drainage Plan Review

~~A. **Generally.** It is the public policy of the City to preserve, protect, and conserve freshwater wetlands, and the benefits derived wherefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial to economic, social, and agricultural development of the City.~~

~~B. **Applicability.** This Division shall apply to all land-disturbing activities regulated by this Article. No site permit shall be issued and no land disturbance started for any construction in a development identified as containing wetlands until the owner has obtained all required state and federal permits or releases related to the dredging or filling of wetlands. As a pre-condition to receiving a building or land disturbance permit for a development identified as containing wetlands where the applicant for the permit does not intend to fill a wetland, such unaffected wetland must be identified in one of the methods enumerated in **Sec. 7.602, Wetlands Identification**, shown on the proposed development plans, and submitted to the City Engineer along with plans to protect and avoid any disturbance to such unaffected wetland.~~

~~C. **Exemptions.** The requirements of this Division do not apply to the following:~~

~~1. Artificially-constructed ponds, drainage ditches, stormwater retention/detention basins, and treatment lagoons that exist at the site and that may appear to display wetland-like properties. However, the applicant would need to independently contact IDEM or the U.S. Army Corps of Engineers (USACE) for appropriate Federal and State requirements;~~

~~2. Wetlands or portions thereof for which Federal or State permits for fill were issued prior to the enactment of this Division; or~~

~~3. Any area or use excluded from local planning and zoning jurisdiction by Federal or State law.~~

~~D. **Responsibility of Site Owner.** It will be the responsibility of the project site owner to complete a site permit application and ensure that all wetlands identified to be present at the project site are sufficiently protected and preserved as set out in this Division.~~

~~Ordinance No. 15, 2015~~

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A. **Generally.** In order to gain an understanding of the drainage requirements for a specific project, a developer may submit conceptual drainage plans and calculations for review by the City Engineer. The direction provided by the City Engineer during such a review is based on preliminary data and shall not be construed as an acceptance or binding on either party.

B. **Data Requirements.** The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

1. Conceptual plans showing general project layout, including existing and proposed drainage systems.
2. General description of the existing and proposed drainage systems in narrative form.
3. Map showing on-site 100-year floodplain and floodway (please note if none exists).
4. Map showing all wetlands, lakes, and ponds on or adjacent to the site.
5. Existing watercourse or regulated drains.
6. Watershed Boundaries with USGS Contours or best information possible.
7. Drainage calculations detailing existing and proposed discharges from the site.
8. Letter of Intent for obtaining any needed consents, off-site easements, right-of-way, or regulatory permits.

Sec. 7.602 ~~Wetlands Identification~~Permit Procedures

~~A. **Means for Identification, Delineation and Existence of Wetlands.** In implementing the terms of this Division, any of the following materials shall be prima facia evidence which may be relied upon by the City Engineer for the identification, delineation, and existence of a wetland:~~

~~1. National Wetlands Inventory (NWI) maps produced or maintained by the United States Fish and Wildlife Service (USFWS);~~

~~2. Maps produced, or maintained and utilized, by the United States Army Corps of Engineers (USACE) for identification and/or delineation of wetlands;~~

~~3. Maps produced, or maintained and utilized, by the United States Natural Resources Conservation Service (NRCS) for the identification and/or delineation of wetlands;~~

~~4. USDA – NRCS Soil Survey of the City hydric soils list; or~~

~~5. Field investigations performed by the United States Army Corps of Engineers (USACE) or private consultants recognized by the Corps as authorities in wetland identification and delineation.~~

~~B. **Notes:**~~

~~1. National Wetlands Inventory (NWI) maps are intended to identify potential wetlands. Due to the lack of field verification, NWI classified wetlands are sometimes erroneously identified, missed, or misidentified. Additionally, the criteria used in identifying these wetlands, as established by USFWS, are different from those currently used by the U.S. Army Corps of Engineers. NWI maps best serve as an indicator of potential jurisdictional wetlands.~~

~~2. Soil survey maps were developed from actual field investigations by soil scientists from the NRCS but they address only one of the three required wetland criteria and may reflect historical conditions rather than current site conditions.~~

~~3. It is recommended that all sites be field reviewed by a qualified person with experience in wetland identification in order to determine the presence or absence of wetlands.~~

~~Ordinance No. 15, 2015~~

~~Effective on: 6/22/2015~~

A. **Applicability.** This Division applies to all development, or re-development of land, that results in land disturbance of one (1) acre or more. Individual lots with land disturbance less than one (1) acre but more than 3,000 square feet, or individual lots that are developed within a larger permitted project site, shall refer to **Sec. 7.604, Review of Individual Lots**, for plan review requirements and procedures.

B. General Procedures. The following are the general procedures from applying for, to renewing and terminating a permit:

1. To pull a site permit, the project site owner shall submit an application to the City Engineer. The application will include construction plan sheets, a stormwater drainage technical report, a stormwater pollution prevention plan, and any other necessary support information. Specific information to be included in the application can be found in **Sec. 7.603, Information Requirements**.
2. After the City Engineer's receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. Once all comments have been received and review completed, the City Engineer will either approve the project, or request modifications.
3. Once the plans are approved, a Construction/Stormwater Pollution Prevention Plan Technical Review and Comment form and a Site Permit will be issued. The project site owner must file a Notice of Intent to IDEM through IDEM's Regulatory ePortal a minimum of 48 hours prior to the commencement of construction activities. The project site owner shall notify the City of Valparaiso before beginning construction. A pre-construction meeting is required to be held prior to any grading activity to ensure that appropriate perimeter control measures have been implemented on the site and the location of any existing tiles have been properly marked.
4. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Ordinance and the terms and conditions of the approved permit.

5. Upon completion of construction activities, as-built plans must be submitted to the City of Valparaiso. Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the City of Valparaiso, requesting a termination inspection. The City of Valparaiso, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of City of Valparaiso's Stormwater Ordinance and its technical standards, and that the terms and conditions of the permit. Once the applicant receives a signed copy of the Termination Inspection Checklist confirming compliance, they must forward a copy to IDEM along with the required IDEM NOT form.
6. Permits issued under this scenario will expire 3 years from the date of issuance. If construction is not completed within 3 years, an updated permit application must be submitted to the City of Valparaiso. If construction is not completed within 5 years, an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.

C. **SWPPP Review Time Limits.** Pursuant to IC 13-18-27, an MS4-designated entity or other review authority such as SWCD must make a preliminary determination as to whether the construction plan associated with SWPPP is substantially complete before the end of the tenth (10th) working day (for sites with less than 5 acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the fourteenth (14th) working day (for sites with 5 acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Depending on the outcome of the SWPPP review, the following scenarios may play out. These time limits only apply to the SWPPP portion of the overall permit submittal and do not affect any official or non-official permit review timelines set by the entity for other aspects of the permit application.

1. *No SWPPP review notification received.* If the review authority does not notify the applicant of its preliminary determination as to whether the construction plan is substantially complete within either 10 or 14 days as noted above, the project site owner may submit a notice of intent letter to IDEM including the information required this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project including the land disturbing activities of the construction project, provided that all the other necessary permits have been obtained.
2. *SWPPP not substantially complete.* If the review authority notifies the applicant that the construction plan is not substantially complete, the project site owner may not submit a notice of intent letter to IDEM until the review authority makes a conclusive favorable determination concerning the construction plan under this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual.
3. *Unfavorable SWPPP.* If the review authority notifies the applicant that the construction plan is deficient and makes a conclusive unfavorable determination concerning the construction plan under this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual, the project site owner may not submit a notice of intent letter to IDEM.
4. *Preliminary SWPPP review.* If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project, provided that all the other necessary permits have been obtained. The plan review authority reserves the right to perform a comprehensive review at a later date, and revisions may be required at that time.
5. *Conditional SWPPP review.* If the review authority notifies the applicant that the construction plan is substantially complete and a conditional review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project provided that the requirements included in the conditional review are fulfilled and all the other necessary permits have been obtained.

6. *Favorable SWPPP review.* If the review authority notifies the applicant that the construction plan is substantially complete and a comprehensive review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the City of Valparaiso Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project, provided that all the other necessary permits have been obtained.

Sec. 7.603 Information Requirements

A. **Exemptions.** Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in the "Applicability and Exemptions" sections of **Division 7.200, Prohibited Discharges and Connections**, through **Division 7.500, Stormwater Quality Management for Post-Construction**. If a project or activity is exempt from any or all requirements of this ordinance, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than 1 acre of land, or developed within a larger permitted project site. Review and acceptance of such lots is covered under **Sec. 7.604, Review of Individual Lots**, below.

B. **Permit submittal elements.** The different elements of a permit submittal include construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, post-construction BMP Operation and Maintenance Manual, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana who also meets the definition of a Trained Individual found in **Article 18, Definitions**.

1. *Construction Plans.* Construction plan sheets and an accompanying narrative report shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans must include items listed in the information submission checklist provided in the City of Valparaiso Stormwater Technical Standards Manual, Appendix B.
2. *Stormwater Drainage Technical Report.* A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include items listed in the information submission checklist provided in the City of Valparaiso Stormwater Technical Standards Manual.
3. *Stormwater Pollution Prevention Plan for Construction Sites.* For sites with total disturbance of one (1) acre or more, a stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Ordinance. The SWPPP and construction plans must include the items listed in the information submission checklist provided in the City of Valparaiso Stormwater Technical Standards Manual. For land disturbances totaling 3,000 square feet or more of land area but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the City of Valparaiso Technical Standards must be designed and shown on the plans.

4. *Post-Construction Stormwater Pollution Prevention Plan and O&M Manual.* For sites with total land disturbance of one (1) acre or more of total land area, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the City of Valparaiso Stormwater Technical Standards Manual. The post-construction stormwater pollution prevention plan must include items listed in the information submission checklist provided in the City of Valparaiso Stormwater Technical Standards Manual. For such sites, an Operations and Maintenance Manual (O&M Manual) is required to facilitate the proper long-term function of all post-construction stormwater quality measures. The detailed requirements of the manual are provided in the City of Valparaiso Stormwater Technical Standards Manual.

Sec. 7.604 Review of Individual Lots

A. **Generally.** For individual lots, or projects disturbing land between 3,000 square feet and one acre, a formal review of individual lot/project plan and issuance of a site permit to the lot/project is required. Similarly, for individual lots disturbing less than 3,000 square feet of total land area, developed within a larger permitted project, a formal review of lot plan and issuance of a site permit will be required. All stormwater management measures necessary to comply with this Ordinance must be implemented in accordance with the permitted plan for the larger project.

B. **Required information.** The following information must be submitted to the City of Valparaiso, for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of a site permit.

1. A site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales.
2. Erosion and sediment control plan that, at a minimum, includes the following measures:
   a. Installation and maintenance of a stable construction site access.
   b. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
   c. Minimization of sediment discharge and tracking from the lot.
   d. 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.
   e. Implementation of concrete or cementitious wash water practices that securely contain and allow for the proper disposal of concrete or cementitious wash water.
   f. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
   g. Self-monitoring program including plan and procedures.

C. **Individual lot within a development covered by CSGP.** For residential developments where an individual lot operator has purchased one or more lot within an active permitted development that has permit coverage under IDEM's CSGP, the individual lot operator shall submit to the City a completed Construction Stormwater Residential Development Registration form prior to the issuance of site permit. The purpose of this form is to establish responsibility for an individual lot operator to comply with specific requirements of the permit for the larger project, as approved by the City of Valparaiso. The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.

Sec. 7.605 Changes to Plans

Any changes or deviations in the detailed plans and specifications after approval of the applicable site permit shall be filed with, and accepted by, the City of Valparaiso prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.

Sec. 7.606 Fee Structure

Refer to **Article 15, Permits and Procedures** and City of Valparaiso website for fee structure.

Sec. 7.607 Required Assurances

Refer to City of Valparaiso General Construction Specification for information on required assurances.

Sec. 7.608 Terms and Conditions of Permits

A. **Generally.** In granting a Site Permit, the City of Valparaiso may impose such terms and conditions as are reasonably necessary to meet the purposes of this Ordinance.

B. **Responsibility.** The project site owner shall insure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in **Article 17, Enforcement, Interpretation, and Repealer**. The project site owner shall inform all general contractor, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the Site Permit and the schedule for proposed implementation. In the event that a project site is determined to impact or discharge to a Sensitive Area or is located in an Impact Drainage Area, the City of Valparaiso may require more stringent stormwater quantity and quality measures than detailed in this Ordinance or in the *Indiana Stormwater Quality Manual*.

C. **Determination of Sensitive Areas**

1. *Sensitive areas.* Sensitive Areas include highly erodible soils, wetlands, karst areas, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources.
2. *Class V injection well.* Any discharge from a stormwater practice that is a Class V injection well shall meet the Indiana groundwater quality standards and registered with US EPA as required by the IDEM.
3. *Wetlands.* If wetlands are suspected on a site, a wetland determination, followed by a delineation if wetlands are confirmed, should be completed in accordance with the methodology established by the U. S. Army Corps of Engineers (USACE). Any of the following materials shall be prima facia evidence which may be relied upon by the City Engineer for the identification, delineation, and existence of a wetland: (a) National Wetlands Inventory (NWI) maps produced or maintained by the U. S. Fish and Wildlife Service (USFWS); (b) maps produced, or maintained and utilized, by the USACE for identification and/or delineation of wetlands; (c) maps produced, or maintained and utilized, by the U. S. Natural Resources Conservation Service (NRCS) for the identification and/or delineation of wetlands; (d) USDA-NRCS Soil Survey of the City of Valparaiso hydric soils list; and (e) field investigations performed by the USACE or private consultants recognized by the Corps as authorities in wetland identification and delineation. Note: the NWI maps are intended to identify potential wetlands. Due to the lack of field verification, NWI classified wetlands are sometimes erroneously identified, missed, or misidentified. Additionally, the criterial used in identifying these wetlands, as established by USFWS, are different from those currently used by the USACE. NWI maps best serve as an indicator of potential jurisdictional wetlands. Likewise, soil survey maps were developed from actual field investigations by soil scientists from the NRCS but they address only one of the three required wetland criteria and may reflect historical conditions rather than current site conditions. It is recommended that all sites be field reviewed by a qualified person with experience in wetland identification in order to determine the presence or absence of wetlands.
4. *Threatened or endangered species habitat.* The need for the applicant to check for the presence of threatened or endangered species habitat will be determined on a case-by-case basis. Special terms and conditions for development determined to impact or discharge to any Sensitive Area shall be included in the Site Permit.

D. **Determination of Impact Drainage Areas**

The City of Valparaiso or City of Valparaiso Engineer is authorized, but is not required, to classify certain geographical areas as Impact Drainage Areas. In determining Impact Drainage Areas, the City of Valparaiso may consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility. Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an Impact Drainage Area by the City Engineer. Special terms and conditions for development

within any Impact Drainage Area shall be included in the Site Permit. The following areas shall be designated as Impact Drainage Areas, unless good reason for not including them is presented to the City of Valparaiso.

1. A floodway or floodplain as designated by the most updated FEMA Code dealing with floodplain regulation and/or by the Best Available Data through IDNR.
2. Land within 25 feet of each bank of any ditch within the City of Valparaiso's system.
3. Land within 15 feet of the centerline of any stormwater infrastructure or enclosed conduit within the City of Valparaiso's system.
4. Land within 75 feet of each bank of a county open regulated drain.
5. Land within 50 feet of a natural drainageway.
6. Land within 75 feet of the centerline of any tiled regulated drain.

Sec. 7.609 Certification of As-Built Plans and Visual Recordings

A. **Applicability.** This Division shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the City of Valparaiso or retained privately.

B. **As-Built Requirements.** After completion of construction of the project, a professionally prepared and certified 'as-built' set of plans by a Professional Engineer or licensed Land Surveyor registered in the State of Indiana shall be submitted to the City Engineer for review. Additionally, a digital copy of the 'as-built' plans is required in a format acceptable to the City Engineer. As-Built plans shall include all pertinent data relevant to the completed stormwater drainage system and stormwater management facilities, and shall include:

1. Pipe size and pipe material
2. Invert elevations
3. Top rim elevations
4. Elevation of the emergency overflow (spillway) for ponds
5. Grades along the emergency flood routing path(s)
6. Pipe structure lengths
7. BMP types, dimensions, and boundaries/easements
8. "As-planted" plans for BMPs, as applicable
9. Data and calculations showing detention basin storage volume
10. Data and calculations showing BMP treatment capacity
11. Certified statement on plans stating the completed stormwater drainage system and stormwater management facilities substantially comply with construction plans as approved by the City Engineer (See certificate in the Stormwater Technical Standards Manual).

C. **Visual Recording Requirements.** In addition to As-Built Plans, to verify that all enclosed drains are functioning properly, visual recordings (via closed circuit television) of such drains shall be required, once following the completion of installation (including the installation of all utility mains). The details on the television requirements are provided in the City's General Construction Specifications.

Sec. 7.610 Post-Project Maintenance Bond and Verifications

In addition to as-built plans and the certification of completion and compliance, following the release of performance assurances, the property owner, developer, or contractor shall be required to file a maintenance bond or other acceptable guarantee with the City of Valparaiso in a form satisfactory to the City of Valparaiso in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this Ordinance and that any off-site drainage problems that may arise, whether upstream or downstream of such project, will be corrected if such drainage problems are determined by City of Valparaiso to have been caused by the development of such project. The details of the requirements on the

bond or other acceptable guarantee are provided in **Article 15, Permits and Procedures**, and the City of Valparaiso General Construction Specification.

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DIVISION 15.300 STANDARDIZED DEVELOPMENT APPROVAL PROCEDURES

Sec. 15.305 Stormwater Management Plans and Permitting Procedures

Refer to **Division 7.600, Permit Requirements and Procedures,** for stormwater management plans and permitting procedures.

A. **Conceptual Drainage Plan Review.** In order to establish that an adequate drainage outlet(s) exists for a proposed development seeking Primary Plat approval in accordance with **Division 15.800, Subdivision Plat Procedures**, or Development Plan approval in accordance with **Division 15.400, Procedures and Administration for Development Plan Approval,** from the Plan Commission or Planning Director, respectively, a developer may apply for a conceptual drainage plan review by the City Engineer. As part of the conceptual drainage plan review, a developer shall submit conceptual drainage plans for review by the City Engineer prior to the Plan Commission hearing for review and approval of a Primary Plat or Planning Director approval for a Development Plan. Any preliminary drainage approval by the Plan Commission (for Primary Plats and other Plan Commission approvals) and/or City Engineer (for Development Plans and other administrative approvals) as a result of such a review is based on preliminary data and shall not be construed as a final drainage approval or considered binding on either party.

1. *Data Requirements.* The following is a general listing of minimum data requirements for the review of conceptual drainage plans:
    a. Two complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems and proposed outlets;
    b. General description of the existing and proposed drainage systems in narrative form;
    c. Watershed boundaries on County LIDAR 1-foot topographic mapping;
    d. Existing watercourse or regulated drains; and
    e. Letter of Intent (LOI) for obtaining any needed consents, off-site easements, right-of-way, or regulatory permits.

B. **Permit Procedures.**

1. *Applicability.* This Section applies to all development, or redevelopment of land, that results in land disturbance of one acre or more. Individual lots with land disturbance less than one acre, or individual lots that are developed within a larger permitted project site, should refer to Subsection , D, *Review of Individual Lots*, below, for plan review requirements and procedures.
2. *Application.* The project site owner shall submit an application for a site permit to the City Engineer. The application will include:
    a. Draft Notice of Intent letter (NOI);
    b. Site permit application form;
    c. Construction plan sheets;
    d. Stormwater drainage technical report;
    e. Stormwater pollution prevention plan (SWPPP); and
    f. Any other necessary support information (see Subsection D, *Information Requirements*, below)
3. *Submission Requirements.* Paper copies of each of the above described application materials must be submitted to the City. Additionally, a digital copy of the construction plans is required in a format accepted by the City Engineer.

4. *Application Completeness.* After the receipt of the application, the applicant will be notified as to whether their application was complete or insufficient, in accordance with **Sec. 15.307, Application Completeness Review**. The applicant will be asked for additional information if the application is insufficient.

5. *Approval or Request for Modification.* Once all comments have been received and the review is complete, the City Engineer will either approve the project or request modifications.

6. *Form and Permit Issuance.* Once the plans are approved, a Construction / Stormwater Pollution Prevention Plan (SWPPP) Technical Review and Comment form and a Site Permit will be issued.

7. *Notice of Intent (NOI).* The project site owner must file a Notice of Intent (NOI) a minimum of 48 hours prior to the commencement of construction activities. The submittal of the NOI must be provided to the City and the Indiana Department of Environmental Management (IDEM). The submittals must include:

    a. IDEM:

        i. Updated NOI form;

        ii. Proof of publication;

        iii. Plan review verification (the Construction/Stormwater Pollution Prevention Plan Technical Review and Comment form); and

        iv. The applicable fee established by IDEM.

    b. City of Valparaiso:

        i. Copies of the final, approved construction plans;

        ii. Stormwater drainage technical report;

        iii. Stormwater pollution prevention plan (SWPPP) for construction sites;

        iv. Post-construction stormwater pollution prevention plan;

        v. Updated NOI form;

        vi. Proof of publication;

        vii. Copy of Notice of Sufficiency (NOS).

8. *Pre-Construction Meeting.* A pre-construction meeting is required to be held prior to any grading activity to ensure that appropriate perimeter control measures have been implemented on the site and the location of any existing tiles have been properly marked.

9. *Monitoring.* Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this UDO and the terms and conditions of the approved permit.

10. *As-Built Plans.* Upon completion of construction activities, as-built plans must be submitted to the City prior to relase of Occupancy Permit. As-Built survey of individual lots shall include Finish Floor Elevation and certification of lot corners.

11. *Notice of Termination (NOT).* A Notice of Termination (NOT) shall be sent to the City and IDEM once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed. Permits issued under this scenario will expire five years from the date of issuance. If construction is not completed within five years, the NOI must be resubmitted at least 90 days prior to expiration.

C. **Information Requirements.**

1. *Exemptions.* Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in **Division 7.300, Stormwater Quantity Management; Division 7.400, Stormwater Pollution Prevention for Construction;** and **Division 7.500, Stormwater Quality Management for Post-Construction**. If a project or activity is exempt from any or all requirements of this UDO, an application shall be filed

listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required for individual lots, disturbing or impacting less than one acre of land, or developed within a larger permitted project site. Review and acceptance of such projects is covered under Subsection E, *Review of Individual Lots*.

2. *Secondary Stormwater Plan Submittals.* The different elements of a permit submittal for a Secondary Stormwater Plan approval include:

    a. Notice of Intent (NOI);

    b. Proof of publication of a public notice;

    c. Construction plans;

    d. Stormwater drainage technical report;

    e. Stormwater pollution prevention plan (SWPPP) for active construction sites;

    f. Post-construction stormwater pollution prevention plan; and

    g. Any other necessary supporting information.

3. *Signed and Sealed.* All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana.

4. *Construction Plans.* Construction plan sheets (not to exceed 24" by 36" in size) and an accompanying narrative report shall describe and depict the existing and proposed conditions. This must be submitted in digital format acceptable to the City Engineer as well as hard copy. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analysis of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans need to include the following detailed items:

    a. Title sheet which includes location map, vicinity map, operating authority, design company name, developer name, and index of plan sheets.

    b. A copy of a legal boundary survey for the site, performed in accordance with Rule 12, Title 865, Indiana Administrative Code or any applicable and subsequently adopted rule or regulation for the subdivision limits, including all drainage easements and wetlands.

    c. A reduced plat or project site map showing the parcel identification numbers, lot numbers, lot boundaries, easements, and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no larger than 11 inches by 17 inches for all phases or sections of the project site.

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

        i. A topographic map of the land to be developed and such adjoining land whose topography may affect the layout or drainage of the development. The contour intervals shall be one foot intervals. All elevations shall be given in either National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum of 1988 (NAVD). The horizontal datum of the topographic map shall be based on Indiana State Plane Coordinates, NAD83. The map will contain a notation indicating these datum information.

            a. If the project site is less than or equal to two acres in total land area, the topographic map shall include all topography of land surrounding the site to a distance of at least 100 feet.

b. If the project site is greater than two acres in total land area, the topographic map shall include all topography of land surrounding the site to a distance of at least 200 feet.

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

iii. Location of all existing structures on the project site.

iv. One hundred year floodplains, floodway fringes, floodways, and date reference information used to establish such (please note if none exists).

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

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

vii. Apparent land use of all adjacent properties.

viii. Identification and delineation of sensitive areas.

ix. The location of regulated drains, farm drains, inlets and outfalls, if any of record, along with recordation number, etc.

x. Location of all existing cornerstones within the proposed development and a plan to protect and preserve them.

xi. Date topographic survey (field work) was performed.

xii. A grading and drainage plan, including the following information:

a. Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas, along with finished floor elevations of all living areas;

b. One hundred year floodplains, floodway fringes, floodways, and date reference information used to establish such (please note if none exists);

c. Delineation of all proposed land disturbing activities, including off-site activities that will provide services to the project site;

d. Information regarding any off-site borrow, stockpile, or disposal areas that are associated with a project site, and under the control of the project site owner;

e. Existing and proposed topographic information at a contour interval appropriate to indicate drainage patterns;

f. Location, size, and dimensions of all existing streams to be maintained and new drainage systems such as culverts, bridges, storm sewers, conveyance channels, and 100-year overflow paths/ponding areas shown as hatched areas, along with all associated easements;

g. Location, size, and dimensions of features such as permanent retention or detention facilities, including natural or constructed wetlands, used for the purpose of stormwater management (include existing retention or detention facilities that will be maintained, enlarged, or otherwise altered and new ponds or basins to be built); and

h. One or more typical cross-sections of all existing and proposed channels or other open drainage facilities

(including existing retention or detention facilities) carried to a point above the 100-year high water and showing the elevation of the existing land and the proposed changes, together with the high water elevations expected from the 100-year storm under the controlled conditions called for by this Ordinance, and the relationship of structures, streets, and other facilities.

xiii. Utility plan sheet(s) showing the location of all proposed utility lines for the project.

xiv. Storm sewer plan/profile sheet(s) showing the elevation, size, length, location of all proposed storm sewers. Existing and proposed ground grades, storm sewer structures elevations, and utility crossings also must be included.

xv. A 24-inch by 36-inch plat (both in hard copy and digital format acceptable to the City Engineer), including the following information:

a. Legal description;

b. Cross reference to Rule 12; and

c. Regulated drain statement and table.

xvi. Any other information required by the Plan Commission and/or City Engineer in order to thoroughly evaluate the submitted material.

5. *Stormwater Drainage Technical Report.* A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analysis of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include the following detailed items:

a. A summary report, including the following information:

i. Description of the nature and purpose of the project.

ii. The significant drainage problems associated with the project.

iii. The analysis procedure used to evaluate these problems and to propose solutions.

iv. Any assumptions or special conditions associated with the use of these procedures, especially the hydrologic or hydraulic methods.

v. The proposed design of the drainage control system.

vi. The results of the analysis of the proposed drainage control system showing that it does solve the project's drainage problems. Any hydrologic or hydraulic calculations or modeling results must be adequately cited and described in the summary description. If hydrologic or hydraulic models are used, the input and output files for all necessary runs must be included in the appendices. A map showing any drainage area subdivisions used in the analysis must accompany the report.

vii. 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.

viii. Identification of any other State or Federal water quality permits that are required for construction activities associated with the owner's project site.

b. A hydrologic/hydraulic analysis, consistent with the methodologies and calculation included in the City's Stormwater Technical Standards Manual, and including the following information:

i. A hydraulic report detailing existing and proposed drainage patterns on the subject site. The report shall include a description of present land use and proposed land use. Any off-site drainage entering the site or any downstream restrictions shall be addressed as well. This report should be comprehensive and detail all of the steps the engineer took during the design process.

ii. All hydrologic and hydraulic computations shall be included in the submittal. These calculations should include, but are not limited to the following: runoff curve numbers and runoff coefficients, runoff calculations, stage-discharge relationships, times-of-concentration and storage volumes.

iii. Copies of all computer runs. These computer runs shall include both the input and the outputs. Electronic copies of the computer runs with input files must also be included.

iv. A set of exhibits shall be included showing the drainage sub-areas and a schematic detailing of how the computer models were set up.

v. A conclusion which summarizes the hydraulic design and details how this design satisfies this UDO.

vi. Signed and certified (stamped) by a Professional Engineer registered in the State of Indiana.

6. *Stormwater Pollution Prevention Plan (SWPPP) for Construction Sites.* A stormwater pollution prevention plan (SWPPP) associated with construction activities must be designed to, at least, meet the requirements of this UDO and must include the following:

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

b. 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. Hydrologic classification for soils shall be shown when hydrologic methods requiring soils information are used. A soil legend must be included with the soil map.

c. 14-Digit Watershed Hydrologic Unit Code.

d. An estimate of the peak discharge, based on the 10-year storm 24-hour event, of the project site for post-construction conditions.

e. Locations where stormwater may be directly discharged into groundwater, such as abandoned wells or sinkholes (please note if none exists).

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

g. 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.

h. Temporary stabilization plans and sequence of implementation.

i. Permanent stabilization plans and sequence of implementation.

j. Temporary and permanent stabilization plans shall include the following:

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

ii. The type and application rate for anchored mulch.

k. General construction sequence of how the project site will be built, including phases of construction and the associated time of year they are expected to be done.

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

m. Location of all soil stockpiles and borrow areas.

n. A typical erosion and sediment control plan for individual lot development.

o. Self-monitoring program including plan and procedures.

p. A description of potential pollutant sources associated with the construction activities, which may reasonably be expected to add a significant amount of pollutants to stormwater discharges.

q. Material handling and storage associated with construction activity shall meet the spill prevention and spill response requirements in 327 IAC 2-6.1.

r. Name, address, telephone number, and list of qualifications of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.

7. *Post-Construction Stormwater Pollution Prevention Plan (SWPPP).* The post-construction stormwater pollution prevention plan must include the following information:

a. A description of potential pollutant sources from the proposed land use, which may reasonably be expected to add a significant amount of pollutants to stormwater discharges.

b. Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality measures.

c. A description of measures that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of runoff, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and stormwater retention and detention ponds.

d. A sequence describing when each post-construction stormwater quality measure will be installed.

e. Stormwater quality measures that will remove or minimize pollutants from stormwater run-off.

f. Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.

g. An operation and maintenance manual for all post-construction stormwater quality measures to facilitate their proper long term function. This operation and maintenance manual shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality measures. The manual shall include the following:

i. Contact information for the Best Management Practice (BMP) owner (i.e. name, address, business phone number, cell phone number, pager number, e-mail address, etc.).

ii. A statement that the BMP owner is responsible for all costs associated with maintaining the BMP.

iii. A right-of-entry statement allowing City personnel to inspect and maintain the BMP.

iv. Specific actions to be taken regarding routine maintenance, remedial maintenance of structural components, and sediment removal. Sediment removal procedures shall be explained in both narrative and graphical forms. A tabular schedule should be provided listing all maintenance activities and dates for performing these required maintenance activities.

v. Site drawings showing the location of the BMP and access easement, cross sections of BMP features (i.e. pond, forebay(s), structural components, etc.), and the point of discharge for stormwater treated by the BMP. Additionally, the drawings shall provide dimensional information and indicate where applicable warning signs will be placed around a stormwater quality pond. These drawings need to be submitted both in hard copy and in digital format acceptable to the City Engineer.

D. **Review of Individual Lots.** For individual lots, or projects disturbing land between 3,000 square feet and one acre, without regard to the minimum lot size of the applicable zoning district, and/or land disturbing activities less than 3,000 square feet but with sites immediately adjacent to a storm sewer inlet, ditch, stream, wetland or other water courses, and any sites which are located on ground with a slope of six percent or greater, a formal review of individual lot/project plan and issuance of a site permit to the lot/project is required. The following information must be submitted to the City Engineer for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of a site permit. In addition, for individual lots that are developed within a larger permitted project, all stormwater management measures necessary to comply with this UDO must be implemented in accordance with permitted plan for the larger project.

1. *Lot Plan.* A lot plan sealed/signed by an Indiana Registered land Surveyor with following requirements:

a. Drainage patterns and swales;

b. Flood zone designation;

c. Proposed or existing structures tied to lot lines to nearest tenth of a foot.

d. Bearings and distances of lots including: set-back lines, square footage, easements, streets, alleys, sidewalks, building set-back lines, width of lots at building set-back line and lot grades.

e. Proposed elevations required to nearest tenth [must be in accordance with approved subdivision plan (including Benchmark)] for the following:

i. Entry way;

ii. Main floor;

iii. Top of foundation;

iv. Ground grade at each corner of building;

v. Ground grade at lot corners;

vi. Grade at side yard;

vii. Slope of driveway expressed as a percentage; and

viii. Elevations of adjacent properties including top finished floor, lot and building corners.

2. *Erosion and Sediment Control Plan.* At a minimum, the plan must include the following measures:

a. Installation and maintenance of a stable construction site access.

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

c. Minimization of sediment discharge and tracking from the lot.

d. 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.

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

f. Self-monitoring program including plan and procedures.

3. *Responsibility of Lot Operator.* The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.

E. **Changes to Plans.** Any changes or deviations in the detailed plans and specifications after approval of the applicable site permit shall be filed with, and accepted by, the City Engineer prior to land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.

F. **Certification of As-Built Plans.** After completion of construction of the project, a professionally prepared and certified 'as-built' set of plans by a Professional Engineer or licensed Land Surveyor registered in the State of Indiana shall be submitted to the City Engineer for review. Additionally, a digital copy of the 'as-built' plans is required in a format accepted by the City Engineer.

1. *As-Built Plans.* These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:

a. Pipe size and pipe material;

b. Invert elevations;

c. Top rim elevations;

d. Pipe structure lengths;

e. BMP types, dimensions, and boundaries/easements;

f. "As-planted" plans for BMPs, as applicable;

g. Data and calculations showing detention basin storage volume; and

h. Data and calculations showing BMP treatment capacity.

2. *Visual Recordings.* To verify that all enclosed drains are functioning properly, visual recordings (via closed circuit television) of such tile drains shall be required, once following the completion of installation (including the installation of all utility mains). These visual recordings will be scheduled by the City Engineer, and paid for by the developer. Notices shall be provided to the City Engineer within 72 hours following the completion of installation.

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DIVISION 18.300 FLOODPLAIN AND STORMWATER MANAGEMENT DEFINITIONS

For purposes of the floodplain and stormwater management provisions of this Unified Development Ordinance, the following abbreviations and definitions shall apply unless the context clearly indicates or requires a different meaning.

Sec. 18.301 Abbreviations

BMP	Best Management Practice
USACE	United States Army Corps of Engineers
CWA	Clean Water Act
EPA	Environmental Protection Agency
GIS	Geographical Information System
IDEM	Indiana Department of Environmental Management
MS4	Municipal Separate Storm Sewer System
NRCS	USDA-Natural Resources Conservation Service
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SWCD	Soil and Water Conservation District
SWPPP	Stormwater Pollution Prevention Plan
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service

Sec. 18.302 Definitions

A - D

A Zone. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A ZONES, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM.

Zone A. Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and **A1-A30.** Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO. Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH. Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR. Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99. Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

Accessory Structure. (appurtenant structure). A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing structure). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Agricultural land disturbing activity. Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. For purposes of this rule, the term does not include land disturbing activities for the construction of agricultural related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lakes and ponds, wetlands; and other infrastructure.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this section.

Area of Shallow Flooding. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood. The flood having a 1% chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE). The elevation of the 1% annual chance flood.

Base Flow. Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

Basement. The portion of a structure having its floor sub-grade (below ground level) on all sides.

Best Management Practices. Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

Buffer Strip. An existing, variable width strip of vegetated land intended to protect water quality and habitat.

Building. See Structure.

Capacity (of a Storm Drainage Facility). The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

Catch Basin. A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

Channel. A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

Community. A political entity that has the authority to adopt and enforce floodplain provisions for the area under its jurisdiction.

Community Rating System (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Compliance. The act of correcting a violation or violations within the time frame specified by this ordinance.

Comprehensive Stormwater Management. A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

Constructed Wetland. A manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

Construction Activity. Land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.

Construction Plan. A representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation and other pertinent information related to the project site. A stormwater pollution prevention plan is a part of the construction plan.

Construction Site Access. A stabilized stone surface at all points of ingress or egress to a project site, for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

Construction Support Activities. Include but are not limited to the following: concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas. Such activities must not support multiple, unrelated projects, be a commercial/industrial operation, or continue to operate beyond the completion of the construction activity for the project it supports.

Contiguous. Adjoining or in actual contact with.

Contour. An imaginary line on the surface of the earth connecting points of the same elevation.

Contour Line. Line on a map which represents a contour or points of equal elevation.

Contractor or subcontractor. An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

Conveyance. Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

Critical Facility. A facility for which even a slight chance of flooding might be too great. Critical Facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Cross Section. A graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

Culvert. A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal or other impediment.

D Zone. The unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

Dechlorinated swimming pool discharge. Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

Depressional Storage Areas. Non-riverine depressions in the earth where stormwater collects. The volumes are often referred to in units of acre-feet.

Design Storm. A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage of flood control improvements are designed and built.

Detention. Managing stormwater runoff by temporary holding and controlled release.

Detention Basin. A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

Detention Facility. A facility designed to detain a specified amount of stormwater runoff assuming a specified release rate. The volumes are often referred to in units of acre-feet.

Detention Storage. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

Detention Time. The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

~~**D Zone.** The unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.~~

Detritus. Dead or decaying organic matter; generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

Developer. Any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

Development.

A. Any man-made change to improved or unimproved real estate including but not limited to:
    1. Construction, reconstruction, or placement of a structure or any addition to a structure;
    2. Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
    3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
    4. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
    5. Mining, dredging, filling, grading, excavation, or drilling operations;
    6. Construction and/or reconstruction of bridges or culverts;
    7. Storage of materials; or
    8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

B. Development does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing, resurfacing roads, gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Discharge. In the context of water quantity provisions, ~~U~~usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day. In the context of water quality provisions, the discharge means any addition of liquids or solids to a water body or a flow conveyance facility.

Disposal. The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

Ditch. A man-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

Drain. A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

Drainage. The removal of excess surface water or groundwater from land by means of ditches or subsurface drains. Also see Natural drainage.

Drainage Area. The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area.

Dry Well. A type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

Duration. The time period of a rainfall event.

E - G

Elevated Structure. A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations, pilings, or columns (posts and piers).

Elevation Certificate. A certified statement that verifies a structure's elevation information.

Emergency Program. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Environment. The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

Erodibility Index (EI). The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of (RxKxLS)/T (from the universal Soil Loss Equation) and (Cxl)/T (from the Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of windspeed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility Index scores equal to or greater than 8 are considered highly erodible land.

Erosion. The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe different types of water erosion:

A. Accelerated Erosion. Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.
B. Channel Erosion. An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
C. Gully Erosion. An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1-2 ft. to as much as 75-100 ft.
D. Rill Erosion. An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see Rill).
E. Splash Erosion. The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.
~~A.~~F. Sheet Erosion. The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

Erosion and Sediment Control Measure. A practice, or a combination of practices, to ~~control erosion and resulting sedimentation, and/or off-site damages~~ minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

Erosion and Sediment Control System. The use of appropriate erosion and sediment control measures to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

Existing Construction. Any structure for which the start of construction commenced before the effective date of the community's first floodplain provision.

Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain provision.

Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

Filter Strip. A long, relatively narrow area (usually, 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties.

Five-Hundred Year Flood (500-Year Flood). The flood that has a 0.2% chance of being equaled or exceeded in any year.

Floatable. Any solid waste that will float on the surface of the water.

Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM). An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

Flood Prone Area. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

Flood Protection Grade (FPG). The elevation of the regulatory flood plus two feet at any given location in the SFHA (See "Freeboard")

Floodplain. The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations. This section and other provisions of this Unified Development Ordinance, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain Management Regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing (Dry Floodproofing). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing Certificate. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

Floodway. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Fluvial Erosion Hazard (FEH) Corridor. Fluvial Erosion Hazard corridors represent the areas along the streams (including the channel and immediate overbanks areas) that are believed to be subject to stream movement or streambank erosion. These corridors have been delineated for most actively migrating and relatively stationary streams in Indiana through an Indiana Silver Jackets initiative.

Footing Drain. A drainpipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

Freeboard. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe. Those portions of the floodplain lying outside the floodway.

Garbage. All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

Gasoline Outlet. An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surface, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

Geographical Information System (GIS). A computer system capable of assembling, storing, manipulation, and displaying geographically referenced information. This technology can be used for resource management and development planning.

Grade. (1) The inclination or slope of a channel, canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance. (2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit. (3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

Grading. The cutting and filling of the land surface to a desired slope or elevation.

Groundwater. Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

H - P

Habitat. The environment in which the life needs of a plant or animal are supplied.

Hardship. (As related to variances of this chapter) The exceptional hardship that would result from a failure to grant the requested variance. The Common Council requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest Adjacent Grade. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Highly Erodible Land (HEL). Land that has an erodibility index of eight or more.

Historic Structure. Any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

Hot Spot Development. Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, etc., industrial/commercial or any hazardous wase storage areas or areas that generate such wasters, industrial sites, restaurants and convenience stores, any activity involving chemical missing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

Hydrologic Unit Code. A numeric United States Geologic Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

Hydrology. The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

Illicit Discharge. Any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs. Illicit discharges include polluted flows from direct and indirect connections to the MS4 conveyance, illegal dumping, and contaminated runoff.

Impaired Waters. Waters that do not or are no expected to meet applicable water quality standards, as included on IDEM's CWA Section 303(d) List of Impaired Waters.

Impervious Surface. Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

Increased Cost of Compliance (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

Individual Building Lot. A single parcel of land within a multi-parcel development.

Individual Lot Operator. A contractor or subcontractor working on an individual lot.

Individual Lot Owner. A person who has financial control of construction activities for an individual lot.

Infiltration. Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of runoff through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

Inlet. An opening into a storm drain system for the entrance of surface stormwater runoff, more completely described as a storm drain inlet.

Land-Disturbing Activity. Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

Land Surveyor. A person licensed under the laws of the State of Indiana to practice land surveying.

Larger common plan of development or sale. A plan, undertaken by a single project site owner or a group pf project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a large common plan. The term also includes phased or other construction activity by a single entity for its own use.

Letter of Final Determination (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F).

Letter of Map Amendment (LOMA). An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F). An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest Adjacent Grade. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest Floor. The lowest elevation described among the following:

A. The top of the lowest level of the structure;
B. The top of the basement floor;
C. The top of the garage floor, if the garage is the lowest level of the structure;
D. The top of the first floor of a structure elevated on pilings or pillars;
E. The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
    1. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls.
    2. The total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior walls immediately beneach each opening, whichever is higher.
    3. Such enclosed space shall be usable solely for the parking of vehicles and building access.

Manhole. Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term Manufactured Home does not include a recreational vehicle.

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

Measurable Storm Event. A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

Mitigation. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two-fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

Municipal Separate Storm Sewer System (MS4). An MS4 is a conveyance or system of conveyance that is:

A. Owned by a state, city, town, village, or other public entity that discharges to waters of the U.S.;
B. Designed or used to collect or convey stormwater;
C. Not a combined sewer; and
D. Not part of a Publicly Owned Treatment Works (POTW).

National Flood Insurance Program (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum of 1929 (NGVD). As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

National Pollution Discharge Elimination System (NPDES). A permit developed by the U.S. EPA through the Clean Water Act. NPDES permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. In Indiana, the permitting process has been delegated to IDEM.

Natural Drainage. The flow patterns of stormwater runoff over the land in its pre-development state.

New Construction. Any structure for which the start of construction commenced after the effective date of the community's first floodplain provision.

New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain provision.

North American Vertical Datum of 1988 (NAVD 88). As adopted in 1993, is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Nutrient(s). (1) A substance necessary for the growth and reproduction of organisms. (2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

Obstruction. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock,

gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Offense. Both a violation and a failure of compliance on a particular project. If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense.

One-Hundred Year Flood (100-Year Flood). The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter "A" is subject to the 1% annual chance flood. See Regulatory Flood.

One-Percent Annual Chance Flood. The flood that has a one percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter "A" is subject to the 1% annual chance flood. See Regulatory Flood.

Open Drain. A natural watercourse or constructed open channel that conveys drainage water.

Open Space. Any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

Outfall. The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

Outlet. The point of water disposal from a stream, river, lake, tidewater, or artificial drain.

Participating Community. Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Peak Discharge (or Peak Flow). The maximum instantaneous flow from a given storm condition at a specific location.

Percolation. The movement of water through soil.

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

Pervious. Allowing movement of water.

Physical Map Revision. (PMR). An official republication of a community's FEMA map to effect changes to base (one percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Point Source. Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or maybe discharged.

Porous Pavement. A type of infiltration practice to improve the quality and reduce the quantity of stormwater runoff via the use of manmade, pervious pavement which allows runoff to percolate through the pavement and into underlying soils.

Professional Engineer. A person licensed under the laws of the State of Indiana to practice professional engineering.

Project Site. The entire area on which construction activity is to be performed.

Project Site Owner. The person required to submit a stormwater permit application and required to comply with the terms of this ordinance, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

Public Safety and Nuisance. Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Q - Z

Rain Garden. A vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

Receiving Stream, Receiving Channel, or Receiving Water. The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

Recharge. Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

Recreational Vehicle. A vehicle that is the following:

A. Built on a single chassis;
B. 400 square feet or less when measured at the largest horizontal projections;
C. Designed to be self-propelled or permanently towable by a light duty truck; and
D. Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

Redevelopment. ~~Alterations of a property that change a site or building in such a way that there is disturbances of one acre or more of land~~Development occurring on a previously developed site. The term does not include such activities as exterior remodeling.

Refueling area. An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment of vehicles.

Regional Pond. A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

Regular Program. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulated Drain. A drain subject to the provisions of the Indiana Drainage Code, I.C.-36-9-27.

Regulatory Flood. The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory

flood elevation at any location is as defined in **Sec. 4.502, General Provisions**. The Regulatory Flood is also known by the terms: Base Flood, One-Percent Annual Chance Flood and 100-Year Flood.

Release Rate. The amount of stormwater release from a stormwater control facility per unit of time.

Repetitive Loss. Flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

Reservoir. A natural or artificially created pond, lake or other space used for storage, regulation or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

Retention. The storage of stormwater to prevent it from leaving the development site. May be temporary or permanent.

Retention Basin. A type of storage practice, that has no positive outlet, used to retain stormwater runoff for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

Retention Facility. A facility designed to completely retain a specified amount of stormwater runoff without release except by means of evaporation, infiltration or pumping. The volumes are often referred to in units of acre-feet.

Return Period. The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a one percent probability of being equaled or exceeded in any one year.

Riparian Zone. Of, on, or pertaining to the banks of a stream, river, or pond.

Riparian Habitat. A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

Runoff. The portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.

Runoff Coefficient. A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drain system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as stormwater runoff.

Section 1316. The section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Sediment. Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

Sedimentation. The process that deposits soils, debris and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.

Sensitive Water. A waterbody is in need of priority protection or remediation based on its:

A. Providing habitat for threatened or endangered species,
B. Usage as a public water supply intake,
C. Relevant community value,
D. Usage for full body contact recreation,
E. exceptional use classification as found in 327 IAC 2-1-11(b),
~~A.~~F. Outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

Silvicultural. The practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

A. Nonpoint activities include source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. Some of these activities (such as stream crossing for roads) may involve the placement of dredged or fill material which may require a CWA section 404 permit and a 401 Water Quality Certification.
B. Point source activities include any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which hare operated in connection with silvicultural activities and from which pollutants are discharged into water of the United States or the State.

Site. The entire area included in the legal description of the land on which land disturbing activity is to be performed.

Solid Waste. Any garbage, refuse, debris, or other discarded material.

Special Flood Hazard Area (SFHA). The lands within the jurisdiction of the City of Valparaiso subject to inundation by the regulatory flood. The SFHAs of the City of Valparaiso are generally identified as such on the Porter County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 30, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

Spill. The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectional substances.

~~**Start of Construction.** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.~~

Storm Event. An estimate of the expected amount of precipitation within a given period of time. For example, a 10-year frequency, 24-hour duration storm event is a storm that has a 10 percent probability of occurring in any one year.

Stormwater. Water resulting from rain, melting or melted snow, hail, or sleet.

Stormwater Drainage System. All means, natural or man-made, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

Stormwater Facility. All ditches, channels, conduits, levees, ponds, natural and manmade impoundments, wetlands, tiles, swales, sewers and other natural or artificial means of draining surface and subsurface water from land.

Stormwater Management Facility. A device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release, or the velocity of flow.

Stormwater Management System. A collection of structural and non-structural practices and infrastructure designed to manage stormwater on a site. This system may include but is not limited to erosion control measures, stormwater drainage infrastructure, detention/retention facilities, and stormwater quality BMPs.

Stormwater Pollution Prevention Plan. A plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

Stormwater Quality Management Plan. A comprehensive written document that addresses stormwater runoff quality.

Stormwater Quality Measure. A practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.

Stormwater Runoff. The water derived from rain falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

Strip Development. A multi-lot project where building lots front on an existing road.

Structure. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a historic structure, provided that the alteration will not preclude the structures continued designation as a historic structure.

Subsurface Drain. A pervious backfield trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

Surface Runoff. Precipitation that flows onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by that surface but collects and runs off.

Suspension. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Swale. An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

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

Tile Drain. Pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

Topographic Map. Graphical portrayal of topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

Topography. The representation of a portion of the earth's surface showing natural and man-made features of a give locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area.

Trained individual. An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification (such as CESSWI and/or CPESC certification), or other documented and applicable experience or coursework as deemed sufficient by the City of Valparaiso that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

Tributary. Based on the size of the contributing drainage area, a smaller watercourse which flows into a larger watercourse.

Urban Drain. A drain defined as "Urban Drain" in Indiana Drainage Code.

Urbanization. The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

Variance. A grant of relief from the floodplain management provisions of this Unified Development Ordinance, which permits construction in a manner otherwise prohibited where specific enforcement would result in unnecessary hardship.

Vegetated Swale. A type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

Violation. ~~The failure of a structure or other development to be fully compliant with this section. A structure or other development without the elevation, other certification, or other evidence of compliance required in this section is presumed to be in violation until such time as that documentation is provided.~~Any action or inaction which violates the provisions of this Ordinance or the Technical Standards, the requirements of an approved stormwater management design plan or

permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this Ordinance. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief in addition to, and separate from, the imposition of any of the enforcement actions described in this Ordinance.

Water Quality. A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

Water Resources. The supply of groundwater and surface water in a given area.

~~**Watercourse.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.~~

Water Surface Elevation. The height, in relation to the North American Vertical Datum of 1988 (NAVD 88), or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Waterbody. Any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Watershed. The region drained by or contributing water to a specific point that could be along a stream, lake or other stormwater facility. Watersheds are often broken down into subareas for the purpose of hydrologic modeling.

Watershed Area. All land and water within the confines of a drainage divide. See also Watershed.

Wetlands. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Weir. A channel-spanning structure for measuring or regulating the flow of water.

X Zone. The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual probability of flooding is less than 0.2%.

Zone. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A. See definition for A ZONE.

Zone B, C, AND X. Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

FROM ARTICLE 18, DIVISION 18.400, GENERAL DEFINITIONS (not changing at this time)

Building means a structure that has a roof and walls, and which is intended to shelter people, animals, property, or business activity, and includes any structure used or intended to be used for supporting or sheltering a use or occupancy. The term "building" shall be construed as if it were followed by the words "or part or parts thereof and all equipment therein." *(For floodplain regulations applicability, see Division 18.400, Floodplain Management Definitions, "Structure.")*

Nonconforming Building. See **Section 13.201 Types of Nonconformities.**

Nonconforming Lot. See **Section 13.201 Types of Nonconformities.**

Nonconforming Situation means a nonconforming building, nonconforming structure, nonconforming lot, nonconforming use, or nonconforming sign. See **Section 13.201 Types of Nonconformities.**

Nonconforming Use. A use of land or use of a building or structure lawfully existing at the time this Ordinance or a subsequent amendment to this Ordinance became effective which does not conform to the use requirements of the district in which it is located.

Structural Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders and floor joists, ceiling joists, roof rafters, or stairways.

Structure. Any man-made object having an ascertainable stationary location on land or in water, whether or not affixed to the land. *(For floodplain regulations applicability, see Division 18.400, Floodplain Management Definitions, "Structure.")*

Structure, Permanent. A structure placed on or in the ground or attached to another structure in a fixed position.

Structure, Temporary. A structure that is designed to be repeatedly erected or inflated (tents and inflatable structures) or buildings that are picked up and moved.

FROM ARTICLE 2, DIVISION 2.200, USES BY DISTRICT

From: Boarding House listed
To: Boarding House not listed

From: P, Permitted
To: X, Prohibited

Table 2.201.A.
Agricultural, Residential, and Institutional Uses

P = Permitted use; L = Limited Use review; S = Special Use review; X = prohibited use

Land Use	Zoning District															Limited / Special Use Standard
	ER 1	SR 2	GR 3	UR 4	NC 5	RU 6	CN 7	CG 8	CBD 9	CP 10	RT 11	CA 12	BP 13	INL 14	INH 15	
Agricultural Uses																
Agriculture	X	X	X	X	X	P	X	X	X	X	X	P[16]	X	X	X	
Greenhouses or Nursery	X	X	X	X	X	L	X	X	X	X	X	P[16]	X	L	X	Sec. 2.502
Farmstead	X	X	X	X	X	P	X	L	X	X	X	X	X	X	X	
Intensive Agriculture	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Commercial Stables	X	X	X	X	X	L	X	X	X	X	X	X	X	X	X	Sec. 2.501
Kennel	X	X	X	X	X	L	S	L	X	X	X	X	L	L	X	Sec. 2.503
Residential Uses																
~~Boarding House~~, Dormitory, Fraternity, or Sorority	X	X	X	X	X	X	X	X	X	X	X	P[16]	X	X	X	
Single-Family	P	P	P	P	P	P	L	L	X	P	P	X	X	L	S	Sec. 2.504
Single-Family Cluster	P	P	P	X	X	L	X	X	X	X	X	X	X	X	X	Sec. 2.505
Single-Family Attached	X	X	L	P	X	X	X	X	X	P	S	X	X	X	X	Sec. 2.506
Planned or TND[17]	P[18]	P[18]	P[18]	P[18]	X	X	X	X	X	P[18]	X	X	X	X	X	
Multifamily	X	X	X	P	X	X	X	L	L	L	S	P[16]	X	X	X	Sec. 2.507
Manufactured Home Park or Subdivision	X	X	S	X	P[19]	X	X	X	X	X	X	X	X	X	X	Sec. 2.508
Group Homes	P	P	P	P	P	L	X	X	X	X	X	P[16]	X	X	X	Sec. 2.509
Live-Work Units	X	X	X	X	X	X	P	P	P	P	L	X	X	X	X	Sec. 2.510
Manufactured Home[20]	L	L	L	L	L	X	X	X	X	X	X	X	X	X	X	Sec. 2.511

FROM ARTICLE 18, DIVISION 18.200, USE DEFINITIONS

Sec. 18.202 Residential Uses

A. **~~Boarding House,~~ Dormitory, Fraternity, or Sorority** means ~~any dwelling, other than a hotel or bed and breakfast establishment, where, for compensation:~~

~~1. Lodging and meals are provided; or~~

~~2.~~ `Sleeping accommodations and common kitchen facilities are provided for individuals while they are enrolled at an educational institution.

ARTICLE 13 NONCONFORMITIES

DIVISION 13.100 PURPOSE AND APPLICABILITY

Sec. 13.101 Purpose

Sections 13.101 and 13.102: Most Articles in the UDO start with Purpose and Applicability. Such is suggested here.

The purpose of this Article is to permit legal nonconformities yet secure the gradual or eventual elimination of them by restricting and diminishing them.

Sec. 13.102 Applicability

This Article establishes regulations for lots, uses, buildings, structures, and signs, that were legally established, but no longer conform to the City's land development regulations.

DIVISION 13.200 TYPES OF NONCONFORMITIES

Sec. 13.201 Types of Nonconformities

Sections 13.201:

Lots were moved up to be addressed first, as typical practice in a zoning ordinance. No content changes were made to the regulations concerning Lots.

The descriptions of Nonconforming Uses and Nonconforming Buildings and Structures were made more complete.

A. **General Types of Legal Nonconformity.** There are four general types of legal nonconformities that are recognized by this UDO.

1. **Lots.** A lawfully established lot, not held in common with any other lot, that does not meet the area or other dimensional standards of this UDO, is a legal lot which is subject to the provisions of this Article.
2. **Nonconforming Uses.** This term applies to nonconforming uses of land and/or nonconforming uses within buildings or structures. The following uses are legally nonconforming uses:
   a. Uses that were lawfully established but are not currently listed as Permitted, Limited, or Special Uses in the district in **Section 2.201, Permitted, Limited, and Special Uses,** are nonconforming uses.
   b. Uses that are listed as Special Uses or Limited Uses in a district, but were lawfully established without Special Use or Limited Use approval. For these uses, the nonconforming use status may be removed by obtaining the relevant approval (including prescribed standards). (see **Article 2, Permitted Uses and Supplemental Standards**).
   c. Uses that were lawfully established within a floodplain or floodway, but are no longer permitted in the floodplain or floodway.
3. **Nonconforming Buildings or Structures.** The following are legally nonconforming buildings or structures:
   a. Buildings or structures that fail to meet the development type (including unit count) or bulk standards related to buildings or structures (density, intensity, setbacks, and height) of this UDO.

PROPOSED

b. Buildings or structures that were lawfully established within a floodplain or floodway, but are no longer permitted due to their location or elevation within the floodplain or floodway.

4. **Nonconforming Signs.** See **Article 5, Signs.**

B. **Unlawful Uses, Buildings, Structures, Lots, or Signs.** A lot, use, building, structure, or sign that did not comply with applicable laws at the time it was established, constructed, or created, is an unlawful lot, use, building, structure, or sign. Unlawful lots, uses, buildings, structures, and signs are violations of this UDO and are not subject to this **Article 13, Nonconformities**.

DIVISION 13.300 GENERAL REGULATIONS

Sec. 13.301 General Burden of Proof

Section 13.301: Simplification and removal of improper Indiana Code reference.

A person/entity who claims a (legal) nonconforming use has the burden of establishing the claim.

Sec. 13.302 Construction on Legal Lots That Do Not Conform to Dimensional Requirements

Section 13.302: (previously 13.305) Moved ahead in list of topics typically reviewed in nonconformities sections, but no other changes made at this time.

A. **Combination of Lots to Increase Conformity.**

1. Where a landowner owns several abutting lots that do not conform to the dimensional requirements of the district in which they are located, they shall combined to create fully conforming lots or, if full conformity is not possible, they shall be combined to the extent that the combination increases the degree of conformity.
2. The City will not require the combination of lots pursuant to paragraph A.1., above, if either:
   a. Two or more of the lots are developed with principal buildings, and the combination of lots would require that one or more of the buildings be torn down in order to comply with this UDO; or
   b. The combination of lots would materially disrupt the character of the neighborhood, for example, by creating a through lot mid-block on a street segment that does not include any other through lots.

B. **Construction on Legal Lots That Do Not Conform to Dimensional Requirements.** A legal lot that does not meet district requirements with respect to area, lot width, or frontage may be built upon if:

1. The lot is a lot of record; and
2. The use is permitted in the district in which the lot is located;
3. The lot has sufficient frontage on a public street to provide access that is appropriate for the proposed use;
4. All yards or height standards are complied with, except that the Planning Director may authorize a reduction of required yards of up to 10 percent, provided that the Planning Director finds that the reduction does not allow a building that would be larger than permitted on a conforming lot.

PROPOSED

Sec. 13.303 Restrictions for Nonconforming Uses

Section 13.303: (previously in 13.302, 13.303, 13.304, and in title of 13.307 but damage/ destruction of nonconforming uses was not addressed in such.) Proposal provides easier navigation and more thorough coverage of typical topics concerning Nonconforming Uses.

A. **Generally.** Where nonconforming uses of a premises would not be permitted by the provisions of this UDO, such uses may continue so long as they remain otherwise lawful, subject to compliance with the following provisions. Should the following provisions be in conflict with Section 13.305 Nonconforming Buildings or Uses in the Floodplain or IC 36-7-4-1019, the provisions of Section 13.305 and/or IC36-7-4-1019 shall govern.

B. **Maintenance.** Although routine maintenance is described in Section 13.304 Restrictions for Nonconforming Buildings and Structures, nonconforming uses may be housed in either conforming or nonconforming buildings or structures (or on premises without any structures). Routine maintenance is permitted to the extent said maintenance does not extend or intensify the nonconforming use.

C. **Alteration, Enlargement, or Extension.**

1. A nonconforming use shall not be altered, enlarged, or extended to occupy additional space than upon initial approval. Additionally, no structural alteration of any kind shall be made in any building or structure containing a nonconforming use, except in the following situations:
   a. When the alteration is required by law;
   b. When the alteration will result in eliminating the nonconforming use; or
   c. When a building or structure in a residential district containing residential nonconforming use(s) is altered in any way to improve livability, provided that no structural alterations are made that increase the number of dwelling units, bedrooms, floor area, nor increase the nonconformity of the building in any way.
2. Such legal nonconforming use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use;
3. No additional building or structure shall be erected in connection with such legal nonconforming use;
4. A legally established nonconforming parking area, outside storage area, or outside operations area may be maintained, repaired, or upgraded with pavement provided that:
   a. There is no increase in the total area occupied by the parking area, outside storage area, or outside operations area;
   b. If, in the discretion of the Planning Director, pavement would serve to reduce a potential negative impact of the exiting parking area, outside storage area, or outside operations area on surrounding properties (e.g., reduction in dust, noise, erosion, etc.); and
   c. Such pavement shall require proper permit(s) and shall also be subject to full review under and compliance with the stormwater management requirements.

B. **Destruction.** If any building or structure that houses a nonconforming use is destroyed by any means, such use shall lose its nonconforming status and shall

not be reestablished. (To be destroyed means to suffer damage to the extent of more than fifty percent (50%) of the replacement cost of the building or structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation.) Any future uses shall conform to this UDO. Should the following provisions be in conflict with IC 36-7-4-1019, the provisions of IC 36-7-4-1019 shall govern.

C. **Discontinuance.** A nonconforming use shall remain an active use to maintain its legal nonconforming classification. Whenever a nonconforming use is discontinued for a period of 180 consecutive days, regardless of the owner's intent, such use shall lose its legal nonconforming status and shall not thereafter be reestablished. Any future uses shall conform to this UDO. This excludes right to farm legislation measures in IC 36-7-4-616.

D. **Early Abandonment.** A nonconforming use shall be presumed to be abandoned before the period specified in the Discontinuance subsection above if the intent of the owner or occupant to discontinue the nonconforming use is obvious to the reasonable person.

E. **Conversion.** After a nonconforming use is converted to a conforming use, the use may not thereafter be converted back to any non-conforming use. A nonconforming use shall not be converted to any other legal nonconforming use without Use Variance approval or rezoning to a district that permits the land use. This excludes right to farm legislation measures in IC 36-7-4-616.

F. **Change of Ownership.** Change of ownership does not impact the legality of a nonconforming use unless such was specified in the approval of said use. (For instance, a Use Variance that was to apply to the Petitioner only, only to find the property changed hands and the use continued. The use under new ownership would be an unlawful use.)

Sec. 13.304 Restrictions for Nonconforming Buildings and Structures

Section 13.304: (previously pieced out in 13.304 and 13.307) Proposal provides easier navigation and more thorough coverage of typical topics concerning Nonconforming Buildings/ Structures.

A. **Generally.** Where a nonconforming building or structure exists that could not be rebuilt under the terms of this UDO by reason of development type (including unit count) or bulk standards related to buildings or structures (density, intensity, setbacks, and height), such building or structure may continue to exist so long as it remains otherwise lawful, subject to compliance with the following provisions. This Section excludes the topic of Nonconforming Signs, addressed in Article 5, Signs. Should the following provisions be in conflict with Section 13.305 Nonconforming Buildings or Uses in the Floodplain or IC 36-7-4-1019, the provisions of Section 13.305 and/or IC36-7-4-1019 shall govern.

B. **Maintenance.** Routine maintenance of a nonconforming building or structure is permitted, including necessary non-structural repairs, wiring, plumbing, fixtures, paint, and incidental alterations which do not materially extend the life of the nonconforming structure. Of note, routine maintenance/repair is not, for instance, optional replacement of non-structural walls or rewiring/replumbing a building.

C. **Alteration or Enlargement.** Alteration or enlargement of a nonconforming building or structure shall not increase the extent of nonconformity.

D. **Damage.** When a nonconforming building or structure is damaged to the extent of fifty percent (50%) or less the replacement cost of the structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation based on a current appraisal, the building or structure may be rebuilt in the same location, using the same building footprint, provided that rebuilding begins within one (1) year of the event which caused the damage. Rebuilding shall be diligently pursued to completion or the right to restore the building or structure as nonconforming shall be forfeited. Restoration of a nonconforming building or structure shall not increase the extent of nonconformity existing prior to such damage. Of note, such building or structure may be altered so as to decrease the extent of nonconformity.

E. **Destruction.** Should a nonconforming structure or portion of a structure be destroyed by any means, it shall not be rebuilt, restored, or reconstructed, or occupied for any use not permitted in the district in which the property is located unless the structure will then conform to all regulations of this Ordinance. To be destroyed means to suffer damage to the extent of more than fifty percent (50%) of the replacement cost of the building or structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation.

F. **Relocation.** Should such nonconforming building or structure be relocated for any reason for any distance whatsoever, such shall be in conformity with the provisions of this UDO.

Sec. 13.305 Nonconforming Buildings or Uses in the Floodplain

Section 13.305: (previously 13.306) Section number changed due to changes elsewhere within the Article. No content changes were made at this time, only proper citing of Division 4.500 references. This section will be reviewed in more detail with Engineering Department review of floodplain matters soon.

A. **Generally.** Existing buildings or uses in the floodplain that do not conform to the standards of **Article 4, Site Capacity and Environmental Standards**, as it pertains to floodplains and floodways, are nonconforming. Such uses or structures are susceptible to flood damage, and the City may incur substantial costs should such flood damage occur. Therefore, elimination of the nonconformity or correction of violations are a priority.

B. **Damaged Buildings.** In general, building permits for substantial repair of flood damage (that is, repairs with a value equal to 50 percent or more of the value of the building or structure sought to be repaired) within special flood hazard areas are subject to the standards of **Division 4.500, Floodplain Management.**

C. **Substantial Repairs.** Building permits shall not be issued for substantial repair of flood damage in the following circumstances:

1. If the standards of **Division 4.500, Floodplain Management** cannot be met, the building or structure cannot be rebuilt, and its use shall be discontinued.
2. Buildings, except mobile homes and manufactured homes, that are located on parcels on which it is feasible to relocate the building out of the floodplain. However, if it is not feasible to relocate the building, building permits may be issued only if the work includes elevating or floodproofing the building as provided in **Division 4.500, Floodplain Management.**

3. Mobile homes or manufactured homes that are damaged or moved from their foundations by floodwaters, except that mobile homes or manufactured homes may be replaced by new mobile homes or manufactured homes, provided that:
   a. The replacement is according to the applicable standards set out in **Division 4.500, Floodplain Management;** and
   b. The replacement home is manufactured or constructed under authority of **42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards.**
4. Mobile homes or manufactured homes that are damaged by flooding such that the cost of repair is more than 30 percent of the value of the building shall be relocated out of the special flood hazard zone when practicable. If it is not practicable to move the mobile home or manufactured home, it shall either be:
   a. If located within Flood Zone A, A1-30, AH, or AE:
      i. Located where the difference in elevation between the site and street and the flood elevation is less than one foot, and
      ii. The bottom of the structure is elevated at least two feet above the base flood elevation; or
   b. Brought into compliance with the requirements of "Standards for Manufactured Homes and Recreational Vehicles" as contained in **Division 4.500, Floodplain Management.**
5. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of **Division 4.500, Floodplain Managemen** shall meet the requirements of "new construction" as contained in **Division 4.500, Floodplain Management;** and,
6. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of **Division 4.500, Floodplain Management;** shall be undertaken only if said non-conformity is not further extended, or replaced.

PROPOSED

Regarding sections that disappeared with these proposed revisions:

(current) Section 13.202 (Major and Minor Nonconforming Uses, Buildings and Structures): Per current 13.303, abandonment/discontinuance of major/minor nonconformities have the same results -- loss of (legal) nonconforming status. "Should be eliminated" is a suggestion, not enforceable. See DRAFT REVISIONS ABOVE document for proposed changes.

(current) Section 13.301 (regarding special provisions for damage to manufactured home or mobile home): References have been made in the "Generally" sections where relevant to ensure that the entirety of the protections to damaged manufactured homes/mobile homes are referenced, and, if state code changes, reference is appropriate.

(current) Section 13.302 and 13.303 (regarding Agricultural Uses): Agricultural uses are rare in the city. Agricultural uses are protected by state code. What was provided for in the UDO was not complete. References have been made in the "Generally" sections where relevant to ensure that the entirety of the protections are referenced, and, if state code changes, reference is appropriate.

(current) Section 13.303 and 13.304 (Telecommunications, Signage): These topics in this Article were duplicative small portions compared to more robust sections elsewhere in the UDO, so removed from this Article.

(current) DIVISION 13.400 (Mitigation of Nonconformities): The process was inappropriate. A Nonconforming Building /Structure/Sign cannot obtain a Special Use, as a building/structure/sign is not a "use". The appropriate process for removing the nonconforming status of a use (to have less restrictions) is a Use Variance or a rezoning to a zoning district that permits the use. The appropriate process for removing the nonconforming status of a building/structure/sign is a variance from development standards. Except for a rare case, this idea of lessening the burden of (legal) nonconforming restrictions goes against the intent of the Article/icle (restricting nonconforming situations). The basic premise of (legal) nonconforming matters is they exist until they do not, not to enable them to grow/reestablish themselves once gone.

PROPOSED

ARTICLE 13 NONCONFORMITIES

DIVISION 13.100 PURPOSE AND APPLICABILITY

Sec. 13.101 Purpose

Sections 13.101 and 13.102: Most Articles in the UDO start with Purpose and Applicability. Such is suggested here.

~~The purpose of this Division is to establish regulations for lots, buildings and structures, signs, and uses that were legally established, but no longer conform to the City's land development regulations.~~The purpose of this Article is to permit legal nonconformities yet secure the gradual or eventual elimination of them by restricting and diminishing them.

Sec. 13.102 Applicability

This Article establishes regulations for lots, uses, buildings, structures, and signs, that were legally established, but no longer conform to the City's land development regulations.

DIVISION 13.200 TYPES ~~AND CLASSES~~ OF NONCONFORMITIES

Sec. 13.201 Types of Nonconformities

Sections 13.201:

Lots were moved up to be addressed first, as typical practice in a zoning ordinance. No content changes were made to the regulations concerning Lots.

The descriptions of Nonconforming Uses and Nonconforming Buildings and Structures were made more complete.

A. **General Types of Legal Nonconformity.** There are four general types of legal nonconformities that are recognized by this UDO.

1. **Lots.** ~~A~~ A lawfully established lot, not held in common with any other lot, that does not meet the area or other dimensional standards of this UDO, is a legal lot which is subject to the provisions of this Article.

~~1.~~2. **Nonconforming Uses.** This term applies to nonconforming uses of land and/or nonconforming uses within buildings or structures. The following uses are legally nonconforming uses:

a. Uses that were lawfully established but are not currently listed as Permitted, Limited, or Special Uses in the district in **Section 2.201, Permitted, Limited, and Special Uses,** are nonconforming uses.

b. Uses that are listed as Special Uses or Limited Uses in a district, but were lawfully established without ~~a special use permit~~ Special Use or Limited Use approval. For these uses, the nonconforming use status may be removed by obtaining ~~a Special Use permit~~the relevant approval (including prescribed standards). (see **~~Section 15.706, Special Uses~~Article 2, Permitted Uses and Supplemental Standards**).

c. Uses that were lawfully established within a floodplain or floodway, but are no longer permitted in the floodplain or floodway.

PROPOSED

~~2.~~3. **Nonconforming Buildings or Structures.** The following are legally nonconforming buildings or structures:

a. Buildings or structures that fail to meet the ~~density, intensity, setback, bufferyard, height, parking, or bulk requirements~~ development type (including unit count) or bulk standards related to buildings or structures (density, intensity, setbacks, and height) of this ~~Code~~UDO.

b. Buildings or structures that were lawfully established within a floodplain or floodway, but are no longer permitted due to their location or elevation within the floodplain or floodway.

~~3.1. Lots. A lawfully established lot, not held in common with any other lot, that does not meet the area or other dimensional standards of this UDO, is a legal lot which is subject to the provisions of this Article.~~

4. **Nonconforming Signs.** See ~~Division 5.200, Pre-existing, Prohibited, and Nonconforming Signs.~~Article 5, Signs.

B. **Unlawful Uses, Buildings, Structures, Lots, or Signs.** A lot, use, building, structure, ~~lot,~~ or sign that did not comply with applicable laws at the time it was established, constructed, or created, is an unlawful lot, use, building, structure, ~~lot,~~ or sign. Unlawful lots, uses, buildings, structures, ~~lots,~~ and signs are violations of this UDO and are not subject to this **Article 13, Nonconformities**.

~~Sec. 13.202 Major and Minor Nonconforming Uses, Buildings and Structures~~

~~A. **Generally.** Nonconforming uses and nonconforming buildings and structures, are further classified as major or minor, as provided in this Section.~~

~~B. **Major Nonconformities.** Major nonconformities are those for which the nonconformity generates a nuisance *per se* or represents such incompatibility with adjacent uses and/or the Comprehensive Plan that they should be eliminated when discontinued, abandoned, or destroyed. The following are major nonconformities:~~

~~1. Automotive disposal;~~

~~2. Automotive salvage recycler;~~

~~3. Automotive salvage rebuilder;~~

~~4. Disposal;~~

~~5. Recycling;~~

~~6. Salvage;~~

~~7. Scrap metal processing; and~~

~~8. Billboards.~~

~~C. **Minor Nonconformities.** All nonconforming uses, buildings and structures that are not classified as major nonconformities are minor nonconformities. These can be turned into conforming uses pursuant to **Division 13.400, Mitigation of Nonconformities.**~~

PROPOSED

DIVISION 13.~~300~~300 GENERAL REGULATIONS

Sec. 13.301 General Burden of Proof

Section 13.301: Simplification and removal of improper Indiana Code reference.

~~The party alleging the existence of a nonconforming use or variance granted by the Board of Zoning Appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved.~~A person/entity who claims a (legal) nonconforming use has the burden of establishing the claim.

~~Statutory Cross-Reference: IC 36-7-4-1019.~~

Sec. 13.~~305~~302 Construction on Legal Lots That Do Not Conform to Dimensional Requirements

Section 13.302: (previously 13.305) Moved ahead in list of topics typically reviewed in nonconformities sections, but no other changes made at this time.

A. **Combination of Lots to Increase Conformity.**

1. Where a landowner owns several abutting lots that do not conform to the dimensional requirements of the district in which they are located, they shall combined to create fully conforming lots or, if full conformity is not possible, they shall be combined to the extent that the combination increases the degree of conformity.
2. The City will not require the combination of lots pursuant to paragraph A.1., above, if either:
   a. Two or more of the lots are developed with principal buildings, and the combination of lots would require that one or more of the buildings be torn down in order to comply with this UDO; or
   b. The combination of lots would materially disrupt the character of the neighborhood, for example, by creating a through lot mid-block on a street segment that does not include any other through lots.

B. **Construction on Legal Lots That Do Not Conform to Dimensional Requirements.** A legal lot that does not meet district requirements with respect to area, lot width, or frontage may be built upon if:

1. The lot is a lot of record; and
2. The use is permitted in the district in which the lot is located;
3. The lot has sufficient frontage on a public street to provide access that is appropriate for the proposed use;
4. All yards or height standards are complied with, except that the Planning Director may authorize a reduction of required yards of up to 10 percent, provided that the Planning Director finds that the reduction does not allow a building that would be larger than permitted on a conforming lot.

PROPOSED

Section 13.303: (previously in 13.302, 13.303, 13.304, and in title of 13.307 but damage/ destruction of nonconforming uses was not addressed in such.) Proposal provides easier navigation and more thorough coverage of typical topics concerning Nonconforming Uses.

~~Sec. 13.302 Change or Conversion of Use~~

~~A. **Generally.** A nonconforming use shall not be changed to any other nonconforming use unless the proposed nonconforming use is mitigated in accordance with the applicable standards of **Division 13.400, Mitigation of Nonconformities.**~~

~~B.A. **Agriculture.** Nonconforming agricultural uses:~~

~~1. May change to other nonconforming agricultural uses;~~

~~2.1. May not be terminated by the City if they are maintained for three years during any five year period;~~

~~3.1. May not be restricted; and~~

~~4.1. May not be subject to variances, special exceptions, special uses, contingent uses, or conditional uses. However, agricultural uses are subject to compliance with state environmental and health safety laws, and zoning regulations that apply to conforming agricultural uses.~~

~~Statutory Reference: Subsection B. IC 36-7-4-616~~

~~Sec. 13.303 Abandonment or Discontinuance of Use~~

~~A. **Non-Agricultural Uses.**~~

~~1. **Minor Nonconforming Uses.** Whenever a minor nonconforming use is abandoned or discontinued for a period of 180 consecutive days, such use shall not thereafter be re-established, and any future uses shall conform to this UDO.~~

~~2. **Major Nonconforming Uses.** Discontinuance of a major nonconforming use for a period of 180 consecutive days constitutes abandonment of the use, regardless of the owner's intent, and the major nonconforming use shall not be thereafter reestablished.~~

~~3. **Early Abandonment.** A nonconforming use shall be presumed to be abandoned before the period specified in subsection A.1. or A.2. if the intent of the owner or occupant to discontinue the nonconforming use is obvious to the reasonable person.~~

~~B. **Agricultural Uses.** Nonconforming agricultural uses are abandoned if they are discontinued for three years out of any five year period.~~

~~**Telecommunications Towers.** The owner of the property upon which a telecommunications tower is installed shall dismantle the tower and all associated structures if no functioning antenna is attached to the tower for 180 consecutive days. If the site is not redeveloped for another use, it shall be planted with vegetation to minimize erosion.~~

~~Statutory Reference: Subsection B. IC-36-7-4-616; Existing Code Section 535.~~

PROPOSED

Sec. 13.~~304~~ 303 Restrictions for Nonconforming Uses ~~Alternation, Enlargement, or Extension~~

A. **Generally.** Where nonconforming uses of a premises would not be permitted by the provisions of this UDO, such uses may continue so long as they remain otherwise lawful, subject to compliance with the following provisions. Should the following provisions be in conflict with Section 13.305 Nonconforming Buildings or Uses in the Floodplain or IC 36-7-4-1019, the provisions of Section 13.305 and/or IC36-7-4-1019 shall govern.

B. **Maintenance.** Although routine maintenance is described in Section 13.304 Restrictions for Nonconforming Buildings and Structures, nonconforming uses may be housed in either conforming or nonconforming buildings or structures (or on premises without any structures). Routine maintenance is permitted to the extent said maintenance does not extend or intensify the nonconforming use.

C. **Alteration, Enlargement, or Extension.**

1. A nonconforming use shall not be altered, enlarged, or extended to occupy additional space than upon initial approval. Additionally, no structural alteration of any kind shall be made in any building or structure containing a nonconforming use, except in the following situations:
   a. When the alteration is required by law;
   b. When the alteration will result in eliminating the nonconforming use; or
   c. When a building or structure in a residential district containing residential nonconforming use(s) is altered in any way to improve livability, provided that no structural alterations are made that increase the number of dwelling units, bedrooms, floor area, nor increase the nonconformity of the building in any way.
2. Such legal nonconforming use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use;
3. No additional building or structure shall be erected in connection with such legal nonconforming use;
4. A legally established nonconforming parking area, outside storage area, or outside operations area may be maintained, repaired, or upgraded with pavement provided that:
   a. There is no increase in the total area occupied by the parking area, outside storage area, or outside operations area;
   b. If, in the discretion of the Planning Director, pavement would serve to reduce a potential negative impact of the exiting parking area, outside storage area, or outside operations area on surrounding properties (e.g., reduction in dust, noise, erosion, etc.); and
   c. Such pavement shall require proper permit(s) and shall also be subject to full review under and compliance with the stormwater management requirements.

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B. **Destruction.** If any building or structure that houses a nonconforming use is destroyed by any means, such use shall lose its nonconforming status and shall not be reestablished. (To be destroyed means to suffer damage to the extent of more than fifty percent (50%) of the replacement cost of the building or structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation.) Any future uses shall conform to this UDO. Should the following provisions be in conflict with IC 36-7-4-1019, the provisions of IC 36-7-4-1019 shall govern.

C. **Discontinuance.** A nonconforming use shall remain an active use to maintain its legal nonconforming classification. Whenever a nonconforming use is discontinued for a period of 180 consecutive days, regardless of the owner's intent, such use shall lose its legal nonconforming status and shall not thereafter be reestablished. Any future uses shall conform to this UDO. This excludes right to farm legislation measures in IC 36-7-4-616.

D. **Early Abandonment.** A nonconforming use shall be presumed to be abandoned before the period specified in the Discontinuance subsection above if the intent of the owner or occupant to discontinue the nonconforming use is obvious to the reasonable person.

E. **Conversion.** After a nonconforming use is converted to a conforming use, the use may not thereafter be converted back to any non-conforming use. A nonconforming use shall not be converted to any other legal nonconforming use without Use Variance approval or rezoning to a district that permits the land use. This excludes right to farm legislation measures in IC 36-7-4-616.

F. **Change of Ownership.** Change of ownership does not impact the legality of a nonconforming use unless such was specified in the approval of said use. (For instance, a Use Variance that was to apply to the Petitioner only, only to find the property changed hands and the use continued. The use under new ownership would be an unlawful use.)

~~**Sec. 13.302 Change or Conversion of Use**~~

~~Generally. A nonconforming use shall not be changed to any other nonconforming use unless the proposed nonconforming use is mitigated in accordance with the applicable standards of Division 13.400, Mitigation of Nonconformities.~~

~~Agriculture. Nonconforming agricultural uses:~~

~~May change to other nonconforming agricultural uses;~~

~~May not be terminated by the City if they are maintained for three years during any five year period;~~

~~May not be restricted; and~~

~~May not be subject to variances, special exceptions, special uses, contingent uses, or conditional uses. However, agricultural uses are subject to compliance with state environmental and health safety laws, and zoning regulations that apply to conforming agricultural uses.~~

~~Statutory Reference: Subsection B, IC 36-7-4-616~~

Section 13.304: (previously pieced out in 13.304 and 13.307) Proposal provides easier navigation and more thorough coverage of typical topics concerning Nonconforming Buildings/ Structures.

A. **Repairs and Alterations of Nonconforming Buildings or Structures**

1. Routine maintenance of a nonconforming building or structure, or of a conforming building or structure containing a nonconforming use, is permitted, including necessary non-structural repairs, paint, and incidental alterations which do not extend or intensify the nonconforming use or materially extend the life of the nonconforming structure.
2. No structural alteration shall be made in any structure containing a nonconforming use, except in the following situations:
    a. When the alteration is required by law;
    b. When the alteration will result in eliminating the nonconforming use or structure; or
    c. When a building in a residential district containing residential nonconforming uses is altered in any way to improve livability, provided that no structural alterations are made that increase the number of dwelling units or the bulk of the building.
3. No building or structure that contains a major nonconforming use shall be enlarged unless the major nonconforming use is permanently discontinued.

B. **Expansion of Nonconforming Uses.**

1. Major nonconforming uses shall not be expanded.
2. No minor nonconforming use shall be expanded or extended in such a way as to occupy:
    a. Any open space or landscaped area that is required by this UDO; or
    b. Any land beyond the boundaries of the property or lot as it existed on the effective date of this UDO.
3. No minor nonconforming use shall be expanded to displace any conforming uses in the same building or on the same parcel.

C. **Nonconforming Buildings or Structures.**

1. Nonconforming buildings or structures shall not be altered or expanded in any manner unless building coverage and floor area remain within the limits permitted by this UDO.
2. No expansion or alteration of a building or structure shall increase the degree of nonconformity. For example, if a building is set back five feet from a property line and the UDO requires a setback of eight feet, then no portion of an addition could come closer to the property line than the minimum

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~~required eight feet, except as allowed in the NC District pursuant to **Division 3.400, Neighborhood Conservation.**~~

~~D. **Nonconforming Signs.**~~

~~1. Nonconforming signs may not be enlarged or altered in a way that increases their nonconformity, but any structure or portion thereof may be altered to come into conformance with this UDO.~~

~~2. A nonconforming sign which has been damaged by fire, wind or other cause in excess of 60 percent of its replacement cost shall not be restored except in conformance with the applicable regulations in this UDO.~~

~~3. A nonconforming sign shall be properly maintained so that such sign does not constitute a danger to the public health and welfare.~~

Sec. 13.~~307~~304 ~~Damage to Nonconforming Uses and Structures~~ Restrictions for Nonconforming Buildings and Structures

A. **Generally.** ~~**Generally.**~~ Where a nonconforming building or structure exists that could not be rebuilt under the terms of this UDO by reason of development type (including unit count) or bulk standards related to buildings or structures (density, intensity, setbacks, and height), such building or structure may continue to exist so long as it remains otherwise lawful, subject to compliance with the following provisions. This Section excludes the topic of Nonconforming Signs, addressed in Article 5, Signs. Should the following provisions be in conflict with Section 13.305 Nonconforming Buildings or Uses in the Floodplain or IC 36-7-4-1019, the provisions of Section 13.305 and/or IC36-7-4-1019 shall govern.

B. **Maintenance.** Routine maintenance of a nonconforming building or structure is permitted, including necessary non-structural repairs, wiring, plumbing, fixtures, paint, and incidental alterations which do not materially extend the life of the nonconforming structure. Of note, routine maintenance/repair is not, for instance, optional replacement of non-structural walls or rewiring/replumbing a building.

C. **Alteration or Enlargement.** Alteration or enlargement of a nonconforming building or structure shall not increase the extent of nonconformity.

D. **Damage.** When a nonconforming building or structure is damaged to the extent of fifty percent (50%) or less the replacement cost of the structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation based on a current appraisal, the building or structure may be rebuilt in the same location, using the same building footprint, provided that rebuilding begins within one (1) year of the event which caused the damage. Rebuilding shall be diligently pursued to completion or the right to restore the building or structure as nonconforming shall be forfeited. Restoration of a nonconforming building or structure shall not increase the extent of

nonconformity existing prior to such damage. Of note, such building or structure may be altered so as to decrease the extent of nonconformity.

E. **Destruction.** Should a nonconforming structure or portion of a structure be destroyed by any means, it shall not be rebuilt, restored, or reconstructed, or occupied for any use not permitted in the district in which the property is located unless the structure will then conform to all regulations of this Ordinance. To be destroyed means to suffer damage to the extent of more than fifty percent (50%) of the replacement cost of the building or structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation.

F. **Relocation.** Should such nonconforming building or structure be relocated for any reason for any distance whatsoever, such shall be in conformity with the provisions of this UDO.

~~A. Should a nonconforming structure or portion of a structure be destroyed by any means, it shall not be rebuilt, restored, or reconstructed, or occupied for any use not permitted in the district in which the property is located unless the structure will then conform to all regulations of this Ordinance. To be destroyed means to suffer damage to the extent of more than fifty percent (50%) of the replacement cost of the structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation.~~

~~B. When a nonconforming structure is damaged to the extent of fifty percent (50%) or less the replacement cost of the structure based on a current appraisal and damage report by a qualified professional,, exclusive of foundation based on a current appraisal, the structure may be rebuilt in the same location, using the same building footprint, provided that rebuilding begins within one (1) year of the event which caused the damage. Rebuilding shall be diligently pursued to completion or the right to restore the structure as a nonconforming structure shall be forfeited. Restoration of a nonconforming structure pursuant to this subsection shall not increase the degree of nonconformance or noncompliance existing prior to such damage.~~

~~On any nonconforming structure or portion of a structure, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that a building permit is obtained where necessary. Repairs shall not be permitted if the structure or any portion thereof is declared to be unsafe by any official charged with protecting the public safety.~~

Section 13.305: (previously 13.306) Section number changed due to changes elsewhere within the Article. No content changes were made at this time, only proper citing of Division 4.500 references. This section will be reviewed in more detail with Engineering Department review of floodplain matters soon.

PROPOSED

~~**Sec. 13.305 Construction on Legal Lots That Do Not Conform to Dimensional Requirements**~~

~~A. **Combination of Lots to Increase Conformity.**~~

~~1. Where a landowner owns several abutting lots that do not conform to the dimensional requirements of the district in which they are located, they shall combined to create fully conforming lots or, if full conformity is not possible, they shall be combined to the extent that the combination increases the degree of conformity.~~

~~2. The City will not require the combination of lots pursuant to paragraph A.1, above, if either:~~

~~a. Two or more of the lots are developed with principal buildings, and the combination of lots would require that one or more of the buildings be torn down in order to comply with this UDO; or~~

~~b. The combination of lots would materially disrupt the character of the neighborhood, for example, by creating a through lot mid-block on a street segment that does not include any other through lots.~~

~~B. **Construction on Legal Lots That Do Not Conform to Dimensional Requirements.** A legal lot that does not meet district requirements with respect to area, lot width, or frontage may be built upon if:~~

~~1. The lot is a lot of record; and~~

~~2. The use is permitted in the district in which the lot is located;~~

~~3. The lot has sufficient frontage on a public street to provide access that is appropriate for the proposed use;~~

~~4. All yards or height standards are complied with, except that the Planning Director may authorize a reduction of required yards of up to 10 percent, provided that the Planning Director finds that the reduction does not allow a building that would be larger than permitted on a conforming lot.~~

Sec. 13.~~306~~ 305 Nonconforming Buildings or Uses in the Floodplain

A. **Generally.** Existing buildings or uses in the floodplain that do not conform to the standards of **Article 4, Site Capacity and Environmental Standards**, as it pertains to floodplains and floodways, are nonconforming. Such uses or structures are susceptible to flood damage, and the City may incur substantial costs should such flood damage occur. Therefore, elimination of the nonconformity or correction of violations are a priority.

B. **Damaged Buildings.** In general, building permits for substantial repair of flood damage (that is, repairs with a value equal to 50 percent or more of the value of the building or structure sought to be repaired) within special flood hazard

areas are subject to the standards of **Division 4.500, Floodplain** ~~and Wetland Standards~~Management.

C. **Substantial Repairs.** Building permits shall not be issued for substantial repair of flood damage in the following circumstances:

1. If the standards of **Division 4.500, Floodplain** ~~and Wetland Standards~~Management cannot be met, the building or structure cannot be rebuilt, and its use shall be discontinued. ~~The City will work with Federal and other local agencies to assist in relocation.~~
2. Buildings, except mobile homes and manufactured homes, that are located on parcels on which it is feasible to relocate the building out of the floodplain. However, if it is not feasible to relocate the building, building permits may be issued only if the work includes elevating or floodproofing the building as provided in **Division 4.500, Floodplain** ~~and Wetland Standards~~Management.
3. Mobile homes or manufactured homes that are damaged or moved from their foundations by floodwaters, except that mobile homes or manufactured homes may be replaced by new mobile homes or manufactured homes, provided that:
   a. The replacement is according to the applicable standards set out in **Division 4.500, Floodplain** ~~and Wetland Standards~~Management; and
   b. The replacement home is manufactured or constructed under authority of **42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards.**
4. Mobile homes or manufactured homes that are damaged by flooding such that the cost of repair is more than 30 percent of the value of the building shall be relocated out of the special flood hazard zone when practicable. If it is not practicable to move the mobile home or manufactured home, it shall either be:
   ~~a.~~ If located within Flood Zone A, A1-30, AH, or AE:
   a.
      i. Located where the difference in elevation between the site and street and the flood elevation is less than one foot, and
      ii. The bottom of the structure is elevated at least two feet above the base flood elevation; or
   b. Brought into compliance with ~~Section [@@483], Manufactured Homes and Recreational Vehicles~~ the requirements of "Standards for Manufactured Homes and Recreational Vehicles" as contained in **Division 4.500, Floodplain Management.**
5. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of **Division- 4.500, Floodplain** ~~and Wetland Standards~~Management shall meet the requirements of "new construction" as contained in **Division 4.500, Floodplain** ~~and Wetland Standards~~Management; and,

6. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of **Division 4.500, Floodplain** ~~**and Wetland Standards**~~**Management**; shall be undertaken only if said non-conformity is not further, extended, or replaced.

PROPOSED

Regarding sections that disappeared with these proposed revisions:

(current) Section 13.202 (Major and Minor Nonconforming Uses, Buildings and Structures): Per current 13.303, abandonment/discontinuance of major/minor nonconformities have the same results -- loss of (legal) nonconforming status. "Should be eliminated" is a suggestion, not enforceable. See DRAFT REVISIONS ABOVE document for proposed changes.

(current) Section 13.301 (regarding special provisions for damage to manufactured home or mobile home): References have been made in the "Generally" sections where relevant to ensure that the entirety of the protections to damaged manufactured homes/mobile homes are referenced, and, if state code changes, reference is appropriate.

(current) Section 13.302 and 13.303 (regarding Agricultural Uses): Agricultural uses are rare in the city. Agricultural uses are protected by state code. What was provided for in the UDO was not complete. References have been made in the "Generally" sections where relevant to ensure that the entirety of the protections are referenced, and, if state code changes, reference is appropriate.

(current) Section 13.303 and 13.304 (Telecommunications, Signage): These topics in this Article were duplicative small portions compared to more robust sections elsewhere in the UDO, so removed from this Article.

(current) DIVISION 13.400 (Mitigation of Nonconformities): The process was inappropriate. A Nonconforming Building /Structure/Sign cannot obtain a Special Use, as a building/structure/sign is not a "use". The appropriate process for removing the nonconforming status of a use (to have less restrictions) is a Use Variance or a rezoning to a zoning district that permits the use. The appropriate process for removing the nonconforming status of a building/structure/sign is a variance from development standards. Except for a rare case, this idea of lessening the burden of (legal) nonconforming restrictions goes against the intent of the Article (restricting nonconforming situations). The basic premise of (legal) nonconforming matters is they exist until they do not, not to enable them to grow/reestablish themselves once gone.

~~6.~~

~~Sec. 13.307 Damage to Nonconforming Uses and Structures~~

~~A. **Generally.** Should a nonconforming structure or portion of a structure be destroyed by any means, it shall not be rebuilt, restored, or reconstructed, or occupied for any use not permitted in the district in which the property is located unless the structure will then conform to all regulations of this Ordinance. To be destroyed means to suffer damage to the extent of more than fifty percent (50%) of the replacement cost of the structure based on a current appraisal and damage report by a qualified professional, exclusive of foundation.~~

~~When a nonconforming structure is damaged to the extent of fifty percent (50%) or less the replacement cost of the structure based on a current appraisal and damage report by a qualified professional,, exclusive of foundation based on a current appraisal, the structure may be rebuilt in the same location, using the same building footprint, provided that rebuilding begins within one (1) year of the event which caused the damage. Rebuilding shall be diligently pursued to completion or the right to restore the structure as a nonconforming structure shall be forfeited. Restoration~~

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~~of a nonconforming structure pursuant to this subsection shall not increase the degree of nonconformance or noncompliance existing prior to such damage.~~

~~On any nonconforming structure or portion of a structure, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that a building permit is obtained where necessary. Repairs shall not be permitted if the structure or any portion thereof is declared to be unsafe by any official charged with protecting the public safety.~~

~~DIVISION 13.400 MITIGATION OF NONCONFORMITIES~~

~~Sec. 13.401 Purpose~~

~~Many minor nonconforming uses have existed for a period of time, and some may have only recently become nonconforming. In many instances, minor nonconforming uses are integral parts of the community's fabric, that is, its character and function, so their continuing existence promotes the City's policy objective of protecting its neighborhoods. In these instances, the classification "nonconformity" and resulting restriction on investment may not be what the community desires. As such, the use may be made conforming pursuant to this Division in order to remove the stigma associated with the "nonconforming" designation.~~

~~Sec. 13.402 Procedure~~

~~A. **Generally.** An owner of a major or minor nonconforming use, building, or structure may apply for a Special Use permit which has the effect of making the nonconforming use, building, structure, or sign conforming. The criteria for Special Use approval are set out in **Section 13.403, Criteria for Approval.**~~

~~B. **Exclusions.** This procedure does not apply to nonconforming lots, which may be buildable in accordance with the standards of **Section 13.305, Construction on Nonconforming Lots.**~~

~~Sec. 13.403 Criteria for Approval~~

~~A. **Generally.** A Special Use approval may be granted to make a nonconforming building, structure, use, or sign conforming, if, in addition to the criteria for approval of a Special Use set forth in **Section 15.706, Special Uses,** all of the criteria of this Section are satisfied.~~

~~B. **Minimal Nonconformity.** The use, as conducted and managed, has minimal nonconformities and has been integrated into the neighborhood's function. Evaluation criteria include:~~

~~1. The neighborhood residents regularly patronize or are employed at said use (for non-residential uses).~~

~~2. Management practices eliminate nuisances such as noise, light, waste materials, unreasonably congested on-street parking, or similar conflicts.~~

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3. A history of complaints is justification for denying the Special Use permit, unless the conditions of the permit will eliminate the identified nuisances.

4. The use has been maintained in good condition or its classification as a nonconformity represents a disincentive for such maintenance.

C. **Conditions.** Conditions may be imposed relative to the expansion of bufferyards, landscaping, or other site design provisions, or other limitations necessary to ensure that, as a conforming use, the use will not become a nuisance. Such conditions may relate to the lot, buildings, structures, or operation of the use.

Sec. 13.404 Effect and Annotation

A. **Effect.** Granting a Special Use permit pursuant to this Division makes the use, building, or structure conform to the specifics of the Special Use approval, thereby making the use, building, or structure conform to this UDO (eliminating the nonconformity).

B. **Written Approval.** Special use approvals shall be provided to the applicant in writing and may be recorded by the applicant at the applicant's expense.

C. **Annotation of Official Zoning Map.** Upon granting a Special Use permit and the applicant's demonstration of compliance with any conditions placed upon it, the Planning Director shall place an annotation on the Official Zoning Map, stating that the property has a special use permit, as well as the application case number and date of approval.

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