

Title 18 ENVIRONMENT

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Chapter 18.04 WETLANDS

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18.04.010 Declaration of policy.

It is declared to be the public policy of Porter County to preserve, protect and conserve freshwater wetlands, and the benefits derived therefrom, 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 Porter County.

(Ord. 93-18 § 1)

18.04.020 Findings.

- A. Acreage of freshwater wetlands in the jurisdiction of Porter County has been lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, polluting or other acts inconsistent with the natural uses of such areas. Other freshwater wetlands are in jeopardy of being lost, despoiled or impaired by such unrelated acts.
- B. The preservation, protection and conservation of wetlands is of public concern because of the benefits they provide. They include:
 - 1. Flood and Stormwater Control. Wetlands may slow water runoff and temporarily store water, thus helping to protect downstream areas from flooding. Public health and private property in one part of a watershed may be harmed if wetlands are destroyed in a different part of that watershed.
 - 2. Wildlife Habitat. Wetlands are of unparalleled value as wildlife habitat, and the perpetuation of scores of species depends upon them. Many of the species are migratory and must have nesting, migration and wintering habitat. The destruction of one kind of wetland habitat in one place may reduce populations of wildlife elsewhere. Where specific wetlands support endangered species, destruction of those wetlands may threaten the presence of the endangered species for all time.
 - 3. Water Supply. Wetlands themselves are a source of surface water and may, under appropriate hydrological conditions, serve to recharge groundwater and aquifers and to maintain surface water flow.
 - 4. Water Quality. Many wetlands serve as chemical and biological oxidation basins that help cleanse water that flows through them. Wetlands can also serve as sedimentation areas and filtering basins that absorb silt and organic matter, thereby protecting channels and harbors and enhancing water quality.
 - 5. Fisheries. Wetlands provide the spawning and nursery grounds for several species of fish. The availability of these fish in lakes and streams may be adversely affected by the loss of wetlands adjacent to those waters.
 - 6. Food Chains. Food and organic materials supplied by wetlands support the fish and wildlife of adjacent waters. Wetlands serve as sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.
 - 7. Recreation. Wetlands provide important hunting, fishing, boating, hiking, birdwatching, photography, camping and other recreational opportunities. In addition, wetlands may be critical to recreation beyond their own borders because of the ability to protect water quality and protect and produce wildlife and fish.

(Ord. 93-18 § 2)

18.04.030 Authority.

The ordinance codified in this chapter is adopted under the authority of Indiana Code 36-1-3-1 etseq. (Home Rule) and Indiana Code 36-7-4 (Local Planning and Zoning).

(Ord. 93-18 § 3)

18.04.040 Definitions.

As used in this chapter:

"Discharge of dredged materials" means any addition of dredged material into the waters of the United States. This term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber and forest products nor does this term include de minimis incidental soil movement occurring

during normal dredging operations. This definition shall be considered to be automatically amended to conform with the definition of discharge of dredged materials established from time to time by the United States of America or United States Army Corps of Engineers.

"Dredged material" means material that is excavated or dredged from waters of the United States. This definition shall be considered to be automatically amended to conform with the definition of dredged material established from time to time by the United States of America or United States Army Corps of Engineers.

"Executive secretary" refers to the executive secretary of the Porter County plan commission pursuant to I.C. 36-7-4-311(a).

"Fill material" means any material used for the primary purpose of replacing a wetland area with dry land or of changing the bottom elevation of a wetland or a water body. This definition shall be considered to be automatically amended to conform with the definition of fill material established from time to time by the United States of America or United States Army Corps of Engineers.

"Indiana Department of Environmental Management (IDEM)" means a department within the executive branch of the government of the state of Indiana created pursuant to I.C. 13-7-2-11 et seq.

"Indiana Department of Natural Resources" means an agency of the government of the state of Indiana created pursuant to I.C. 14-3-3-2 et seq.

"Metes and bounds property" means all real estate which does not qualify as a subdivision as defined in this chapter.

"Person" includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, or any other legal entity or its legal representative, agents or assigns.

"Regulated drain" means an open drain, a tiled drain or a combination of the two as defined in I.C. 36-9-27-2 or by any subsequent amendment thereof.

Subdivision. For the purposes of this chapter, the definition of a "subdivision" as found in the Porter County master plan subdivision control ordinance, Chapter 16.08 of this code, or any amendments thereof is adopted by reference.

"U.S. Army Corps of Engineers" means an agency authorized by the government of the United States of America to issue permits for development in and/or around all wetlands.

"Waters of the United States" means:

1. All waters which are currently used, or were used in the past, or may be susceptible for use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes or natural ponds.

This definition shall be considered to be automatically amended to conform with the definition of waters of the United States established from time to time by the United States of America or United States Army Corps of Engineers.

"Wetlands" means those areas that are inundated or saturated by surface 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. Wetlands generally include swamps, marshes, bogs and similar areas. This definition shall be considered to be automatically amended to conform with the definition of a wetlands established from time to time by the United States of America or United States Army Corps of Engineers.

(Ord. 93-18 § 4)

18.04.050 Wetlands identification.

In implementing the terms of this chapter, any of the following materials shall be prima facie evidence which may be relied upon by the agents and representatives of Porter County, Indiana, for the identification, delineation and existence of a wetland:

- A. National wetlands inventory maps produced or maintained by the United States Fish and Wildlife Service;
- B. Maps produced or maintained and utilized by the United States Corps of Engineers for identification and/or delineation of wetlands;
- C. Maps produced or maintained or utilized by the United States Soil and Water Conservation Service for the identification and/or delineation of wetlands;
- D. Field investigations performed by the United States Army Corps of Engineers or private consultants recognized by the Corps as authorities in wetland identification and delineation.

(Ord. 93-18 § 5)

18.04.060 Subdivision of land.

- A. Any plat submitted for subdivision approval must show thereon the location to scale of any wetland or regulated drain located upon the property to be subdivided.
- B. No improvement location permit shall be issued by Porter County or any agency thereof for any proposed subdivision of land in unincorporated Porter County identified as containing wetlands until the owner thereof has obtained all required state and federal permits or releases related to the dredging or filling of wetlands or waters of the United States.
- C. All permits or releases relating to wetlands required in subsection B of this section shall be submitted by the subdivision applicant to the executive secretary of the Porter County plan commission prior to the occurrence of any site development involving the dredging of material, discharge of dredged material, construction of infrastructure, buildings, roads or other site improvements.

(Ord. 93-18 § 6)

18.04.070 Metes and bounds property.

- A. No dredging, discharge of dredged material or filling of wetlands or the waters of the United States in unincorporated Porter County shall be permitted or undertaken on metes and bounds property by any person without having first obtained all required state and federal permits or releases.
- B. As a pre-condition to receiving an improvement location permit for development of any metes and bounds property containing wetlands where the applicant for the permit does not intend to dredge, discharge dredged material or fill a wetland, such unaffected wetland must be identified in one of the methods enumerated in [Section 18.04.050](#) and submitted to the executive secretary of the Porter County plan commission along with a site plan showing the nature and location of the proposed development.

(Ord. 93-18 § 7)

18.04.080 Administration.

- A. Where a wetland will be affected by the dredging, discharge of dredged material or filling by a proposed subdivision of property or the development of any metes and bounds property as set forth in Sections [18.04.060](#) and [18.04.070](#), the executive director of the Porter County plan commission shall notify the board of directors of any conservancy district within whose boundaries such wetlands

exist, and the city and town closest to such wetlands of the proposed subdivision or development of metes and bounds property.

- B. Complaints of alleged violations of this chapter are to be directed to the executive secretary of the Porter County plan commission. The executive director of the Porter County plan commission shall be responsible for administering the investigation of complaints alleging the violation of this chapter and for initiating through the plan commission the enforcement of this chapter as provided in [Section 18.04.100](#)
- C. Where a complaint alleging the violation of this chapter requires an onsite inspection, the inspection may be undertaken by the executive secretary of the Porter County plan commission or his designated representative and, during the course of such inspection, may enter upon any real estate in unincorporated Porter County containing wetlands where dredging, the discharge of dredged material, or fill material is being introduced to wetlands or waters of the United States for the purpose of inspecting such work or activity. If possible, the landowner or occupant of the property shall be given prior notice of the pendency of the inspection. However, the inability or omission to give prior notification to the owner or occupant of the property shall not adversely affect the terms, conditions, and enforcement of this chapter.

(Ord. 93-18 § 8)

18.04.090 Violations.

The following constitutes a violation of this chapter:

- A. Failure to comply with the terms and conditions of this chapter;
- B. Failure to comply with state or federal law relating to the dredging, discharge of dredged material or filling of wetlands or waters of the United States or with the terms and conditions of any permits or releases relative thereto received by a person from any federal or state agency.

(Ord. 93-18 § 9)

18.04.100 Enforcement and penalties.

This chapter may be enforced by implementing any or all of the following remedies or penalties:

- A. The issuance of a cease and desist order by the Porter County building inspector or the Porter County engineer;
- B. The filing of a suit for injunctive relief;
- C. Notification of alleged violations of federal or state law to appropriate state or federal agencies;
- D. Institution of legal action seeking the imposition of a fine and reimbursement of costs and expenses for violations of this chapter;
- E. Upon a finding by a court of proper jurisdiction that a violation of this chapter by a person has occurred, a fine of up to two thousand five hundred dollars (\$2,500.00) per occurrence may be imposed. In addition, Porter County shall be entitled to reimbursement from the person committing the violation of all out-of-pocket expenses which were incurred by Porter County or any of its agencies as a result of the enforcement of this chapter. The expenses include, but are not limited to, court costs, legal fees, administrative fees, witness fees and consultant fees.

(Ord. 93-18 § 10)

Chapter 18.08 WATER WELLS

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18.08.010 Inclusions and definitions.

The minimum standards and requirements of Bulletin No. S.E. 15 and Bulletin No. S.E. 13 are adopted as those of the county and the provisions thereof pertaining or adaptable to the subject matter and intents of this chapter are expressly incorporated herein by reference. In this connection the following definitions shall pertain unless the context specifically indicates otherwise, namely:

"Aquifer" means a water-bearing formation or stratum.

"Casing" means steel or wrought iron pipe, type K copper, or other material approved by the health officer, to exclude unwanted solids or liquids from the interior of the well.

"Cement grout" means a thorough mixture consisting of one bag of Portland cement (ninety-four (94) pounds) with five or six gallons of clean water. When such mixture cannot be placed effectively, additives may be used provided shrinkage is held to a minimum and the mixture will form a water-tight seal throughout the entire depth required to prevent objectionable waters from entering the hole.

"Flushing" means the act of causing a rapid flow of water from a well by pumping, bailing or similar operation.

"Groundwater" means any water in natural state below the surface of the ground.

"Health officer" means the duly appointed, qualified and acting health officer of Porter County, Indiana or his authorized representative.

"Nonresidential well" means any well drilled for more than two residential units or for use other than residential use or for wells drilled for a combination of use involving residential and nonresidential use.

"Person" means any individual, partnership, firm, corporation, institution, school, unit of government, or officer or employee of any of the foregoing.

"Pollution" means such contamination or other alteration of the physical, chemical or biological properties of water as to render such water harmful detrimental or injurious to public health or safety.

"Potable water" means water suitable for drinking or culinary purposes in its natural state or through conditioning.

"Private water supply" means one or more sources of groundwater, including facilities for conveyance thereof, such as wells, springs and pumps, other than those serving a municipality or those operating as a public utility under the rules of the Indiana Public Service Commission.

"Pump installer" means any individual, partnership, firm or corporation that installs a pump in a well or opens the well to service a pump.

"Residential well" means any well drilled for the use of one or two dwelling units.

"Stuffing box" means an approved receptacle in which packing may be compressed to form a water-tight or air-tight junction between two objects.

"Tubing" means metal, fibre or plastic pipe, used to withdraw water from a well. A jet type pump may require two strings of tubing.

"Water table" means the top surface, or upper limit, of the groundwater zone.

"Well" is any excavation, whether drilled, bored, driven, jetted or dug for the purpose of obtaining water from the ground or returning water to the ground or for the purpose of testing the quantity or quality of such water or for lowering (either temporarily or permanently) the groundwater level or water table.

"Well driller" means any individual, partnership, firm or corporation that produces, or contracts to construct a well.

"Well drilling" means any operation which produces a well.

"Well owner" means the legal owner of the real estate containing a well site.

"Well seal" means an approved removable arrangement or device used to cap a well or to establish and maintain a water-tight junction between the casing or curbing of a well and the piping or equipment installed therein, so as to prevent unwanted water, or other contaminating material, from entering the well at the upper terminal.

"Well vent" means an opening or outlet at the upper end of the well casing to allow equalization of air pressure in the well.

"Yield" means the quantity of water per unit of time, which may flow or be pumped from a well, when water level has remained stabilized for one hour or longer.

(Ord. 73-27 § 1)

18.08.020 Permits and inspection.

- A. Before commencement of construction of a well, a well owner shall obtain a written permit signed by the health officer, and the permit shall be posted in a conspicuous place on the premises prior to the commencement of work thereunder. No person shall perform any work on such project until such permit is obtained and posted on the premises. The application for such permit shall be made on a form provided by the health department of the county, which applicant shall supplement by any plans, specifications and other information as deemed necessary by the health officer. A permit and inspection fee of twenty-five dollars (\$25.00) shall be paid to the health department at the time the application is filed. The health department shall apply a portion of the inspection fee for the use and purpose of laboratory expenses in processing the application. Such permit shall be void if the installation is not completed in two years. In emergency situations, the well driller may drill the well prior to obtaining his permit, but the water from such well shall not be used for human consumption until the application for the permit has been filed, permit secured, and well inspected and approved. In such emergency situations, the applicant for the well permit shall notify the health officer by telephone of the pending well installation prior to such installation. The well permit shall be obtained within twenty-four (24) hours of the regular scheduled work day after the start of the emergency installation. No water can be used for human consumption after the installation of a well until the health department has sampled same and determined it to be fit for human consumption.
- B. The health officer shall be allowed to inspect the well installation at any stage of construction and in any event, the applicant for the permit shall notify the health officer when the work is completed or of his intention to abandon the well all in compliance with this chapter. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the health officer. Days not considered regular working days shall not be considered part of the forty-eight (48) hours notice.
- C. The health officer shall be allowed to inspect the pump installation at any stage of construction, and, in any event, the applicant for the permit shall notify the health officer when the work will be ready for final inspection at least four scheduled work hours before any underground portions are covered.

Such scheduled work hours shall be the work hours of the health department.

(Ord. 96-27 § 1; Ord. 73-27 § 2)

18.08.030 Pump installation.

- A. Hand Pumps. All hand pumps, stands or similar devices shall be installed so that no unprotected opening connecting with the interior of the pump exists. The pump spout shall be of the closed downward-directed type. All hand pumps shall be bolted to a mounting flange securely fastened to the well casing. The top of the casing shall extend at least one inch above the face of the flange.
- B. Power Driven Pumps. All power-driven pumps located over wells shall be mounted on the well casing, a pump foundation, or a pump stand, so as to provide an effective well seal at the top of the well. Extension of the casing at least one inch into the pump base will be considered an effective seal provided the pump is mounted on a base plate or foundation, in such manner to exclude dust and insects, and the top of the well casing is at an elevation at least two feet above any known floodwater level. Where the pump unit is not located over the well and the pump delivery or suction pipe emerges from the top thereof, a watertight expanding gasket or equivalent well seal shall be provided between the well casing and piping. A similar water-tight seal shall be provided at the terminal of a conduit containing a cable for a submersible pump. All submersible pumps should have one check valve located on the discharge line above the pump and inside the casing. If the discharge pipe is at least twelve (12) inches above the ground and slopes to drain into the well, the check valve may be located in the house.
- C. Pump Bearing Lubrication. Bearings of power pumps shall be lubricated with water or oil of a bacterial quality equal to that of the water being pumped.
 - 1. Water Lubricated Pumps. If a pump delivering a potable water is provided with a water lubrication tank, the tank shall be so designed and installed as to prevent contamination of the water therein.
 - 2. Oil Lubricated Pumps. The oil reservoir shall be constructed to protect the oil from contamination. The lubrication system should be designed and installed to minimize leakage of oil into the water. The oil shall be free from substances imparting into the water. The oil shall be free from substances imparting an undesirable taste to the water.
- D. Pumphouses. Unless the power-driven pump installation is of weatherproof and frostproof construction, a structure housing the pump shall be constructed permitting access to the pump for maintenance and repair work. The pumphouse floor shall be constructed of impervious material and shall slope away in all directions from the well or suction pipe.
- E. Protection Against Freezing. Pumps, water pipelines and all other wet parts of water systems shall be protected against freezing.
- F. Well Vents. All well vent openings shall be piped watertight to a point not less than twenty-four (24) inches above any known floodwater level, and, in any event, to the top of the well casing. Such vent opening and piping shall be of sufficient size to prevent clogging by hoarfrost and in no case less than one-quarter inch in diameter. The terminals of vent pipes shall be shielded and screened to prevent the entrance of foreign matter and preferably turned down. If toxic or inflammable gases are vented from the well the vent shall extend to the outside atmosphere at a point where the gasses will not produce a hazard. Openings in pump bases shall be sealed watertight.
- G. Sampling Faucets. In all pressure water systems provision shall be made for collection of water samples by installation of a faucet on the discharge side of and as close as possible to the pump. The sampling faucet shall have a smooth turned down nozzle. A hose bib shall not be used.
- H. Suction or Nonpressure Lines. All buried suction pipe, or non-pressure lines shall be enclosed in a pipe conduit having a minimum wall thickness equivalent to a casing of same size, and shall be located from sources of pollution in accordance with the distances specified in the minimum standards applicable hereunder. Suction pipes with annular space between pipe and encasement

under pressure may be installed within the specified distances but in no case within ten feet. Sewers of cast iron pipe with leaded joints, clear water drains, and cisterns, shall not be located within ten feet of a suction line. No suction line shall be beneath a sewer. An exposed suction pipe, as in a basement room, shall be eighteen (18) inches, or greater practicable distance above the floor. Any pipe connecting a pump and well shall be protected against freezing. All new well constructions shall be equipped with pitless adapters.

- I. **Materials Prohibited.** No material will be used in the well or pump installation that will result in the delivered water being toxic or having an objectionable taste or odor. All metallic and nonmetallic materials shall have sufficient structural strength and other properties to accomplish the purpose for which installed. Flexible or non-rigid plastic pipe shall not be used for suspending submersible pumps, unless having the physical properties to withstand the torque and load to which it is subjected. Plastic pipe shall not be used unless bearing the approval of the National Sanitation Foundation and unless having the physical properties to withstand the torque and load to which it is subjected.
- J. **Offset pumps, pressure tanks, electrical controls and components and sampling faucets** shall be located where they are readily accessible. They shall not be located in a crawl space unless the crawl space is drained to the ground surface beyond the crawl space either by gravity or by means of a sump pump, and a minimum of four feet of clear working space is provided between the floor of the crawl space and the floor joist in the pump area. If located in a crawl space, the pump shall be located within five feet of the point of entry. The access opening should be at least two feet high and two feet wide. Any part or accessory to the water system, which requires routine maintenance shall not be installed in a crawl space unless that crawl space meets the requirements of the provisions of this chapter.
- K. **Pressure tanks or approved substitutes, used as part of the water system** shall be of such size as to prevent excessive wear of the pump due to frequency of starting or stopping.

(Ord. 73-27 § 3)

18.08.040 Use of wells for drainage purposes.

- A. The use of a well for disposal of sewage or other material which may pollute the potable underground water is prohibited.
- B. If a well is used for the purpose of returning uncontaminated water to the ground, consideration shall extend to thermal as well as bacterial factors and the plans for the well that is to be so used must be submitted to and be approved by the health officer, the Indiana State Board of Health and the Division of Water of the Department of Natural Resources of the state of Indiana.

(Ord. 73-27 § 4)

18.08.050 Disinfection, samples and reports.

- A. To prevent contamination of the well or aquifer, it is desirable to maintain a chlorine residual of two hundred (200) parts per million or similar anti-bacterial chemicals in the well hole all during the drilling process. Under these conditions the well need not be disinfected until the pump is set. Every new, modified or reconditioned water source, including pumping equipment and gravel used in gravel wall wells, shall be disinfected before being placed in service for general use. Such treatment shall be performed both when the well work is finished and when pump is installed or reinstalled. If there is no significant lapse of time between the two operations, only the latter disinfection will be required. The casing pipe shall be thoroughly swabbed to remove oil, grease and joint dope, using alkalies if necessary to obtain clean metal surfaces. The well or other groundwater development equipment, including the pumping equipment and gravel used in a gravel well construction shall be disinfected with a solution containing enough chlorine to leave a residual or twenty-five (25) parts per million in the well after a period of at least twenty-four (24) hours.

- B. Water Samples. After pumping the well to remove all the disinfectant, water samples, when deemed necessary by the health officer, shall be collected from the installation and shall by laboratory analysis indicate the water to be satisfactory before such installation shall be placed in service and water samples shall be collected by the health officer.
- C. Well Record. The well driller shall supply the health officer, within thirty (30) days after drilling the well, with an accurate record of the construction details of the well including a log of the soil formations and deeper material in which the hole is drilled, results of pumping tests and such other information that may be requested. The driller shall furnish the owner a duplicate copy of this information as well as provide copies of the well record to the Division of Water of the Indiana Department of Natural Resources as required by state statute.

(Ord. 73-27 § 5)

18.08.060 Temporary wells and abandoning wells.

- A. A well, to be temporarily abandoned, but which the owner intends to equip and use at some future time shall be temporarily sealed at the surface by a welded or threaded cap or in the case of a dug well in a manner satisfactory to the health officer.
- B. Permanent Abandonment. A well that is to be abandoned permanently shall be filled with cement grout opposite each water-bearing formation and in the top forty (40) feet of the hole. The remainder of the hole may be filled with puddled clay or other impermeable material that will permanently prevent migration of fluids in the hole. Sand, gravel, slag and crushed limestone are not desirable materials to use in filling a hole because they are permeable, but they may be used opposite a formation or stratum that is impermeable to water to bridge between zones of cement grout. If salt water is entering or may enter the well, the entire hole should be filled with cement grout.
- C. Dewatering wells, temporary service wells, construction water wells, process wells and/or other structures for withdrawing groundwater or lowering of water levels or water tables regardless of location, length of intended service, or original use or intent, shall be constructed to the identical standards and minimums as water supply wells contemplated by this chapter.
- D. The abandonment of dewatering wells, construction wells and temporary wells shall be accomplished via the identical procedure prescribed herein for permanent abandonment.

(Ord. 73-27 § 6)

18.08.070 Powers for inspection—Enforcement—Service of notices and orders—Hearings.

- A. The health officer, bearing proper credentials and identification, shall be permitted to enter upon all properties at proper times for the purpose of inspection, observation, measurement, sampling and testing necessary to carry out the provisions of this chapter.
- B. Whenever the health officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, he shall give notice to such alleged violation to the person or persons responsible therefor, and to any known agent of such person, as hereinafter provided. Such notice shall:
 - 1. Be in writing;
 - 2. Include a statement of reasons why it is being issued;
 - 3. Allow a reasonable time for the performance of any act it requires;
 - 4. Be served upon the owner or his agent, or the occupant, as the case may require; provided, that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him personally, or if a copy thereof is sent by certified

mail to his last known address, or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice, or if he is served with such notice by any other method authorized or required under the laws of this state;

5. Such notice must contain an outline or remedial action, which if taken, will effect compliance with the provisions of this chapter.
- C. Any person affected by any such notice issued by the health officer may request and shall be granted a hearing on the matter before the officer; provided, that such person shall file in the office of the latter within ten days after service of the notice, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. Upon receipt of such petition the health officer, or his designated representative, shall arrange a time and place for such hearing and shall give the petitioner written notice thereof. Such hearing shall be held as soon as practicable after the receipt of request therefor. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should not be complied with.
- D. After such hearing, the health officer shall sustain, modify or withdraw the notice, depending upon his findings as to whether the provisions of this chapter have been complied with. If the health officer shall sustain or modify such notice, it shall be deemed to be an order. Any notice served pursuant to subsection B of this section shall automatically become an order if a written petition for a hearing is not filed in the office of the health officer within the ten days after such notice is served. After a hearing in the case of any notice suspending any permit required by this chapter, when such notice has been sustained by the health officer the permit shall be deemed to have been revoked. Any such permit which has been suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the office of the health officer within ten days after such notice is served.
- E. Whenever the health officer finds that an emergency exists which requires immediate action to protect the public health he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately, but upon petition to the health officer shall be afforded a hearing as soon as possible, in the manner provided in subsection C of this section. After such hearing, depending upon the finding as to whether the provisions of this chapter have been complied with, the health officer shall continue such order in effect, or modify it, or revoke it.

(Ord. 73-27 § 7)

18.08.080 Enforcement interpretation.

The health officer may adopt such rules and regulations as he deems necessary for the proper enforcement and to carry out the purpose and intent of this chapter.

(Ord. 73-27 § 9)

18.08.090 Violations—Penalties.

- A. Any person found to be violating any provision of this chapter except [Section 18.08.020\(A\)](#) shall be served by the health officer with a written order stating the nature of the violation and providing a time limit for satisfactory correction thereof. Any person found to be violating [Section 18.08.020\(A\)](#) immediately shall be subject to prosecution therefor and, upon conviction, shall be subject to the penalties set forth in subsection B of this section.
- B. Any person who shall continue any violation of this chapter beyond the time limit provided for in subsection A of this section shall be guilty of a misdemeanor. On conviction, the violator shall be punished for the first offense by a penalty of not more than five hundred dollars (\$500.00); for the second offense by a penalty of not more than one thousand dollars (\$1,000.00); and for the third and each subsequent offense by a penalty of not more than one thousand dollars (\$1,000.00) to which

may be added imprisonment for any determinate period not exceeding ninety (90) days, and each day after the expiration of the time limit for abating the violation shall constitute a distinct and separate offense.

- C. Any person violating any of the provisions of this chapter shall become liable to the county for any expense, loss or damage occasioned by reason of such violation.
- D. In addition to the penalties defined in this section, the health officer may also institute a suit for mandatory injunction in the circuit court of Porter County to restrain any individual, corporation or governmental unit from violating the provisions of this chapter.

(Ord. 73-27 § 8)

Chapter 18.12 HAZARDOUS SUBSTANCE SAFETY REQUIREMENTS

Sections:

[18.12.010 Definitions.](#)

[18.12.020 Compliance required.](#)

[18.12.030 Lock box requirements.](#)

[18.12.040 Emergency action plan.](#)

[18.12.050 Facility inspection.](#)

[18.12.060 Violation—Penalty.](#)

18.12.010 Definitions.

As used in this chapter:

"Person" means individual, partnerships, co-operative, firm, company, corporation, association, trust, estate, government entity, or any other legal entity or their legal representatives, agents or assigns.

Substances considered as "dangerous, hazardous or toxic," for purposes of this chapter are deemed to be those which are so identified in Section 311 of S.A.R.A. Title III except that all research laboratories, hospitals and academic laboratories shall be required to comply with the provisions of this chapter. The exemption of substances to the extent that they are used for personal, family or household purposes or are present in the same form and concentration of a product packaged for distribution and use by the general public shall exempt retail stores and business but shall not exempt distributors or wholesalers. The exemption of substances to the extent that they are used in routine agricultural operations or as a fertilizer held for sale by a retailer to the ultimate consumer shall not exempt bulk storage facilities, distributors or wholesalers. This exemption from the provisions of this chapter is intended to exempt multi-purpose retailers selling in small quantities and farmers.

(Ord. 90-45 § 1; Ord. 90-8 Art. I)

18.12.020 Compliance required.

Any person utilizing, storing, handling or disposing of dangerous, hazardous or toxic substances except the underground storage of petroleum products, shall be required to comply with the provisions of this chapter.

(Ord. 90-45 § 2; Ord. 90-8 Art. II(1))

18.12.030 Lock box requirements.

Any person to which this chapter applies shall be required to install and maintain a lock box pursuant to Section V, subsection B of the Porter County emergency operations plan. Any and all disputes concerning compliance with Section V, subsection B of the Porter County emergency operations plan shall be resolved by a decision made jointly by the Porter County environmental coordinator and the fire chief whose department has jurisdiction over the facility.

Such lock box shall be installed and operational within sixty (60) days of the effective date of the ordinance codified in this chapter. An extension of this time frame may be granted by the Porter County environmental coordinator upon a showing of good cause.

(Ord. 92-4 §§ 1, 2; Ord. 90-8 Art. II(2) and (3))

18.12.040 Emergency action plan.

Any person required by this chapter to install a lock box shall also prepare an emergency action plan (E.A.P.) that shall identify by name and title the persons responsible for implementing necessary remedial actions in the event of a fire, spill, leak, discharge or release of a dangerous, hazardous or toxic substance on the premises and which is regulated by this chapter. Such plan shall be inserted into the loose leaf binder in the lock box.

(Ord. 90-8 Art. III(1))

18.12.050 Facility inspection.

Authorized representatives of the Porter County environmental coordinator and the fire chief whose department has jurisdiction over the facility shall be granted access to any facility covered by the provisions of this chapter for purposes of inspecting the facility for compliance with the provisions of this chapter. Such inspection shall be conducted after reasonable notice and during regular business hours unless an emergency is deemed to be present requiring immediate inspection of a facility. The decision to determine the presence of an emergency shall be made by the Porter County environmental coordinator or the fire chief whose department has jurisdiction over the facility.

(Ord. 92-4 § 3; Ord. 90-8 Art. III(2))

18.12.060 Violation—Penalty.

This chapter shall be enforced by the Porter County environmental coordinator or his designee. Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00). Every day a violation occurs shall constitute a separate offense.

(Ord. 92-4 § 4; Ord. 90-8 Art. IV(1))

Chapter 18.16 HAZARDOUS MATERIAL RESPONSE TEAM COST REIMBURSEMENT

Sections:

[18.16.010 Definitions.](#)

[18.16.020 Cost and expense liability—Billing procedure.](#)

[18.16.030 Failure to pay—Violation.](#)

[18.16.040 Written objection to payment—Judicial review—Hearing.](#)

[18.16.050 Reimbursement for equipment and supplies.](#)

[18.16.060 Response to incidents outside of county.](#)

18.16.010 Definitions.

As used in this chapter:

"Hazardous materials emergency" means an occurrence or an event that involves the uncontrolled release or emanate threat of an uncontrolled release of a hazardous material into the environment and which creates the potential or possibility of harm to human health, property or the environment.

"Person" means individual, partnership, cooperative, firm, company, corporation, association, trust, estate, government entity, or any other legal entity or their legal representatives, agents or assigns.

"Response" means any and all instances when one or more members of the Porter County hazardous material response team are called out to the scene of an incident involving the presence or suspected presence of dangerous, hazardous or toxic substances.

"Responsible party" means the person liable for reimbursement for costs and expenses associated with operation of the Porter County hazardous material response team and is further defined as found at I.C. 13-11-2-191(d) and shall also include the owner of property upon which an incident occurs involving the presence or suspected presence of dangerous, hazardous or toxic substances.

"Substances considered as dangerous or hazardous material" means those materials identified in I.C. 13-11-2-96 and I.C. 13-11-2-98.

(Ord. 00-14 § 1: Ord. 89-29 Art. I)

18.16.020 Cost and expense liability—Billing procedure.

- A. Any person that uses, stores, handles, transports, or disposes of any dangerous, hazardous or toxic substances or materials or any other substances or materials reasonably believed to be dangerous, hazardous or toxic in such a fashion or manner so as to necessitate a response by the Porter County hazardous material response team shall be liable to the county for reimbursement of the costs and expenses incurred in connection with such response and pursuant to the provisions of this chapter. The Porter County environmental coordinator or his designee shall have sole discretion and responsibility for any "call out" of the Porter County hazardous materials response team.
- B. The Porter County environmental coordinator shall prepare a billing pursuant to this chapter and shall submit such billing to the party responsible for paying the costs and expenses identified in this chapter no later than thirty (30) days following any reimbursable responses of the Porter County hazardous material response team.
- C. The person responsible for reimbursing the county under the provisions of this chapter shall tender payment in satisfaction of the aforementioned billing no later than thirty (30) days following receipt of the billing as prepared and issued by the Porter County environmental coordinator.

(Ord. 00-14 § 2: Ord. 91-28 § 1 (part): Ord. 89-29 Art. II (part))

18.16.030 Failure to pay—Violation.

Any person who fails to reimburse the county within the aforementioned thirty (30) days, shall be deemed to have violated this chapter and shall be subject to a penalty equivalent to five percent of the total billed amount for every day that the responsible party fails to tender reimbursement to the county.

(Ord. 00-14 § 3: Ord. 91-28 § 1 (part): Ord. 89-29 Art. II (part))

18.16.040 Written objection to payment—Judicial review—Hearing.

If a person objects to the aforementioned billing by the Porter County environmental coordinator, the responsible party must file with the Porter County board of commissioners a written objection to the billed amount. Upon receipt of such written objection, the Porter County board of commissioners shall place the matter on the agenda of its next regularly scheduled meeting and shall allow the responsible party an opportunity to object to the billing. The Porter County board of commissioners shall then deliberate and issue a written opinion concerning the appropriateness of the billed amount. If the responsible party objects to the decision of the Porter County board of commissioners, a petition requesting judicial review of the decision of the Porter County board of commissioner shall be filed with the Porter circuit court no later than thirty (30) days from the date of the decision of the Porter County board of commissioners. The Porter County circuit court judge shall conduct a hearing on the petition as expeditiously as is consistent with the court's calendar. The decision of the Porter circuit court judge shall be final unless the responsible party or the Porter County board of commissioners appeals that decision pursuant to appellate procedure for any civil matter.

(Ord. 00-14 § 4: Ord. 91-28 § 1 (part): Ord. 89-29 Art. II (part))

18.16.050 Reimbursement for equipment and supplies.

- A. Any time that the Porter County hazardous material response team is called to the scene of an incident, the responsible party shall reimburse the county (at replacement cost) for any hazardous material response team equipment or supplies which are damaged, lost, spent, destroyed, rendered irreparable, or used up in responding to or managing the incident.
- B. In addition to the reimbursement obligations contained in subsection A of this section, the responsible party shall be billed by the Porter County environmental coordinator as follows:
 1. For an initial response of any hazardous material response unit of one hour or less, the sum of two hundred fifty dollars (\$250.00) per hazardous material response unit except that the mobile command bus shall be billed at the rate of one hundred dollars (\$100.00) for any initial response of one hour or less;
 2. For each hour or fraction thereof of on-site assistance, one hundred fifty dollars (\$150.00) per response unit and fifty dollars (\$50.00) per mobile command bus;
 3. For expendable materials such as absorption materials, emulsifiers, or other agents used in cleanup operations, the actual replacement cost of those materials;
 4. For collection of debris, chemicals, fuel, or contaminated materials resulting from a spill, the actual cost of removal and disposal at an authorized location.

(Ord. 00-14 § 5: Ord. 93-48 § 1: Ord. 91-28 § 2: Ord. 89-29 Art. III)

18.16.060 Response to incidents outside of county.

In the event that the Porter County hazardous material response team responds to an incident outside of the boundaries of Porter County and in a county with which Porter County does not have a reciprocal response agreement, the requesting authority shall be billed the sum of two thousand dollars (\$2,000.00) per incident response. This charge shall be in addition to any and all charges for which the responsible party may be held liable under [Section 18.16.050](#). Additionally, the requesting authority shall also be liable for any and all charges under [Section 18.16.050](#). The provisions of Sections [18.16.020](#) through [18.16.040](#) shall also be applicable to this out-of-county billing.

(Ord. 00-14 § 1: Ord. 91-28 § 3: Ord. 89-29 Art. IV)

Chapter 18.20 HAZARDOUS SPILLAGE REPORTING SYSTEM

Sections:

[18.20.010 Definitions.](#)

[18.20.020 Reporting requirements adopted by reference.](#)

[18.20.030 Spill reports—Submission.](#)

[18.20.040 Spill reports—Investigation—Cleanup.](#)

[18.20.050 Violation—Penalty.](#)

18.20.010 Definitions.

The definitions contained in 327 IAC 2-6-1 and those codified in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. 9600 et seq. and the Federal Emergency Planning and Community Right-to-Know Act (EPCRA) 42 U.S.C. 11045 et seq. are adopted herein as the definitions to be used in this chapter except to the extent that other terms and conditions of this chapter may dictate otherwise.

(Ord. 94-31 § 1 (part): Ord. 91-1 Art. I(1))

18.20.020 Reporting requirements adopted by reference.

The reporting requirements contained in 327 IAC 2-6-2 and those codified in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. 9600 et seq. and the Federal Emergency Planning and Community Right-to-Know Act (EPCRA) 42 U.S.C. 11045 et seq. are adopted and incorporated into this chapter except to the extent that other terms and conditions of this chapter may dictate otherwise.

(Ord. 94-31 § 1 (part): Ord. 91-1 Art. I(2))

18.20.030 Spill reports—Submission.

Any person required to submit a spill report to the Office of Environmental Response of the Indiana Department of Environmental Management pursuant to 327 IAC 2-6-2 and/or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. 9600 et seq., and the Emergency Planning and Community Right-to-Know Act (EPCRA) 42 U.S.C. 11045 et seq. shall immediately thereafter communicate an identical spill report to the Porter County sheriff's police. Notification to the Porter County police shall be considered notification to the Porter County local emergency planning committee.

(Ord. 94-31 § 2: Ord. 91-1 Art. II)

18.20.040 Spill reports—Investigation—Cleanup.

Upon receipt of a spill report, the Porter County sheriff's police shall notify the Porter County environmental coordinator. The Porter County environmental coordinator shall investigate the spill report and shall determine the appropriate response.

The staff of the Porter County environmental department shall be granted and allowed immediate access to any premises upon which a spill has occurred. The Porter County environmental coordinator shall determine whether timely and appropriate actions have been initiated to contain and clean up the spill. If such actions and activities have not been initiated, the Porter County environmental coordinator shall assume responsibility for the containment and cleanup activities. The staff of the Porter County environmental department and members of the Porter County hazardous materials response team shall

be immediately allowed access to any premises upon which the Porter County environmental coordinator has determined there to be a need for cleanup activity by the staff or the team.

The costs and expenses associated with the involvement of the staff of the Porter County environmental department and the Porter County hazardous response team in the containment and cleanup of any spill shall be reimbursed to the county pursuant to [Chapter 18.16](#).

Any person who owns, operates, controls or maintains any facility, premises or vehicle involved in a spill shall submit to the Porter County environmental coordinator, or his designee, any and all reports, information, laboratory tests, or other data deemed necessary and appropriate by the Porter County environmental coordinator in order to evaluate the containment and cleanup activities and to carry out the purposes and intent of this chapter.

(Ord. 91-1 Art. III)

18.20.050 Violation—Penalty.

Violation of any of the provisions, terms or conditions of this chapter shall be punishable by a fine in an amount not to exceed two thousand five hundred dollars (\$2,500.00).

(Ord. 91-1 Art. IV)

Chapter 18.24 UNDERGROUND STORAGE TANKS

Sections:

[18.24.010 Definitions.](#)

[18.24.020 Permit required—Procedure—Fee.](#)

[18.24.030 Excavation site—Standards and guidelines.](#)

[18.24.040 Failure to comply with provisions.](#)

[18.24.050 Contractor's responsibility.](#)

[18.24.060 Violation—Penalty.](#)

18.24.010 Definitions.

The definitions contained in I.C. 13-7-20 are adopted herein as the definitions to be used in this chapter except to the extent that other terms and conditions of this chapter may dictate otherwise.

(Ord. 90-48 Art. I)

18.24.020 Permit required—Procedure—Fee.

Any person engaging in any activity for which certification is required pursuant to I.C. 13-7-20-13.1 shall obtain a local permit for such activity from the Porter County environmental coordinator. Application for such permit shall be made at least seven days prior to the closure, installation, testing, retrofitting or removal of any underground storage tank. However, the Porter County environmental coordinator or his designee shall have the discretion to waive the seven-day requirement in those cases deemed environmental emergencies. The Porter County environmental coordinator shall prepare a written application form for the issuance of the local permit. A permit fee in the amount of one hundred dollars (\$100.00) per site shall be rendered for each application for a local permit. If two different contractors are performing work under this chapter at the same site but are performing two different work scopes, two

separate local permits shall be issued and two separate local permit fees paid.

Prior to the issuance of a local permit under this chapter, the applicant shall show proof of notification as required by 40 CFR 280 and 281 as well as proof of the issuance of a letter to proceed by the Indiana Department of Environmental Management and/or State Fire Marshal's Office.

The closure, installation, testing, retrofitting or removal of any underground storage tank in Porter County shall be done only by a person holding a valid certification for such activity pursuant to I.C. 13-7-20-13.1.

Any permit issued under this chapter shall be nontransferable and shall be valid for only sixty (60) days from the date of issuance.

At the discretion of the Porter County environmental coordinator, a permit renewal may be issued upon the expiration of the sixty (60) days. A fee of fifty dollars (\$50.00) shall be assessed for such permit renewal.

Any permit issued under this chapter must be picked up at the office of the Porter County environmental coordinator. No permits shall be mailed.

(Ord. 96-5 § 1: Ord. 93-49 § 1: Ord. 90-48 Art. II)

18.24.030 Excavation site—Standards and guidelines.

- A. Any closure, installation, testing, retrofitting or removal of an underground storage tank in Porter County shall be done in accordance with the following standards and guidelines.
 - 1. American Petroleum Institute Guide 1604, 2215 and 2215A;
 - 2. National Fire Protection Association Guide 30;
 - 3. Any and all applicable federal, state or local regulations including but not limited to the IDEM Storage Tank Guidance Manual;
 - 4. Local regulations promulgated by Porter County environmental coordinator.

A copy of the Porter County permit issued pursuant to this chapter by the Porter County environmental coordinator shall be prominently displayed at all excavation sites for inspection by the Porter County environmental coordinator and the local fire department with jurisdiction of the area.

- B. The locally issued permit under the provisions of this chapter shall contain a date for the commencing of excavation. Any change in the date for the commencing of excavation under this chapter shall be immediately communicated to the Porter County environmental coordinator and the local fire department having jurisdiction in the area.
- C. The Porter County environmental coordinator shall be provided with a copy of any and all documentation, information or reports submitted to the Indiana Department of Environmental Management pursuant to I.C. 13-7-20. The Porter County environmental coordinator shall be provided with a copy of all sampling test results done at each excavation site under the provisions of this chapter within fifteen (15) days of the permit holder's receipt of such sampling test results. The Porter County environmental coordinator shall be provided with a copy of all disposal records within fifteen (15) days of the disposal of all liquids or sludges removed from any underground storage tank pursuant to the provisions of this chapter. The Porter County environmental coordinator shall also be advised as to the proposed procedure for disposal of soil associated with the excavation activities regulated by this chapter and shall be immediately notified of any groundwater contamination or soil contamination which may be found to be present in conjunction with the activities regulated by this chapter. Any soil excavated under the provisions of this chapter shall be placed on plastic and covered in order to limit further contamination of the environment.
- D. The Porter County environmental coordinator shall be provided with a copy of the results of all tank tightness tests within fifteen (15) days of the permit holder's receipt of such test results.

- E. The Porter County environmental coordinator shall determine the type and extent of necessary safety and monitoring equipment needed at the site of each excavation undertaken pursuant to the provisions of this chapter. The permit holder shall be responsible for assuring the presence of such safety and monitoring equipment at each excavation site and shall be responsible for assuring that all such safety and monitoring equipment is in working order.
- F. The Porter County environmental coordinator shall receive copies of any and all plans for remedial action if such is required at any excavation site regulated by the provisions of this chapter. Upon completion of such remedial action at any excavation site regulated by the provisions of this chapter, the Porter County environmental coordinator shall be provided with a copy of the permit holder's final report concerning the completion of remedial action at the site.
- G. A person certified pursuant to I.C. 13-7-20-13.1 shall be present during any excavation work done under the provisions of this chapter.

(Ord. 96-5 § 2: Ord. 90-48 Art. III)

18.24.040 Failure to comply with provisions.

Failure of any person to comply with any provision of this chapter or to conduct any activity under this chapter in such a manner and fashion so as to violate any federal, state or local workplace health and safety regulations shall result in the local fire department with jurisdiction of the area and/or the Porter County environmental coordinator's issuance of an order requiring immediate compliance with the provisions of this chapter and/or immediate compliance with the applicable federal, state or local workplace health and safety regulations or the suspension of excavation activities regulated by this chapter.

(Ord. 96-5 § 3 (part): Ord. 90-48 Art. IV (part))

18.24.050 Contractor's responsibility.

The contractor to whom the permit is issued under this chapter shall be ultimately responsible for assuring compliance with the terms and conditions of this chapter including the completion and filing of all required reports. Failure of a contractor to meet the terms and conditions of this chapter may at the discretion of the Porter County environmental coordinator result in a denial of the issuance of subsequent permits to that contractor until the provisions of this chapter have been satisfied.

(Ord. 96-5 § 3 (part): Ord. 90-48 Art. IV (part))

18.24.060 Violation—Penalty.

Violation of any of the provisions, terms or conditions of this chapter shall be punishable by a fine in an amount not to exceed two thousand five hundred dollars (\$2,500.00). A separate violation of this chapter shall occur for each day that any of the provisions, terms or conditions of this chapter are violated.

(Ord. 96-5 § 3 (part): Ord. 90-48 Art. IV (part))

Chapter 18.28 ILLICIT DISCHARGE AND STORMWATER CONNECTION

Sections:

[18.28.010 Purpose and intent.](#)

[18.28.020 Definitions.](#)

[18.28.030 Applicability.](#)

[18.28.040 Responsibility for administration.](#)

[18.28.050 Severability.](#)

[18.28.060 Ultimate responsibility.](#)

[18.28.070 Discharge and connection prohibitions.](#)

[18.28.080 Industrial or construction activity discharges.](#)

[18.28.090 Monitoring of discharges.](#)

[18.28.100 Prevention, control and reduction of pollutants.](#)

[18.28.110 Watercourse protection.](#)

[18.28.120 Notification of spills.](#)

[18.28.130 Enforcement I.](#)

[18.28.140 Appeal of enforcement I actions.](#)

[18.28.150 Enforcement II.](#)

[18.28.160 Effective date.](#)

18.28.010 Purpose and intent.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the unincorporated area of Porter County, Indiana, through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods through the Porter County illicit discharge detection and elimination plan, for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user.
- B. To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.
- D. To establish enforcement procedures.

(Ord. No. 13-05, § A, 5-21-2013)

18.28.020 Definitions.

For the purposes of this chapter, the following shall mean:

"Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

"Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

"Construction activity" means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

"County" means the Porter County board of commissioners, Porter County, Indiana, and their designated representatives.

"Facility" means any building including private homes, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

"Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Illegal discharge" means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in [Section 18.28.070](#) of this chapter.

"Illicit connections" means an illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Porter County plan commission; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the county.

"Illicit discharge." See "Illegal discharge."

"Industrial activity" means activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

"Land-disturbing activity" means any activity that changes the land surface. This may include grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, or substantial removal of vegetation, any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

"Municipal separate storm sewer system (MS4)" means publicly owned facilities by which only stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, county roads, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures.

"National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by EPA (or by a state under authority delegated pursuant to 33 U.S.C. 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

"Non-stormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

"Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

"Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides,

herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

"Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"Receiving water" means a waterbody that receives a discharge. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment. It includes waters that are contained in or flow through the unincorporated area of Porter County.

"Spill" means an unintentional release of solid or liquid material from a site.

"Storm drainage system" means facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

"Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"Stormwater pollution prevention plan (SWPPP)" means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

"Threatened discharge" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to persons, property or natural resources.

"Wastewater" means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

"Watercourse" means a natural or artificial channel or swale through which water can flow.

(Ord. No. 13-05, § B, 5-21-2013)

18.28.030 Applicability.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands within the unincorporated area of the county unless explicitly exempted by [Section 18.28.070](#).

(Ord. No. 13-05, § C, 5-21-2013)

18.28.040 Responsibility for administration.

The county shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon by the county may be delegated in writing by the county to persons or entities acting in the beneficial interest of or in the employ of the county.

(Ord. No. 13-05, § D, 5-21-2013)

18.28.050 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or

circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. No. 13-05, § E, 5-21-2013)

18.28.060 Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 13-05, § F, 5-21-2013)

18.28.070 Discharge and connection prohibitions.

A. Illegal Discharges.

1. Discharges Prohibited. No person shall discharge or cause to be discharged into the MS4 or watercourses any materials, including but not limited to pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows.
2. Discharges Exempt. The following discharges are exempt from discharge prohibitions established by this section:
 - a. Diverted stream flows;
 - b. Rising ground water;
 - c. Ground water infiltration to storm drains;
 - d. Springs;
 - e. Natural riparian habitats or wetland flows; and
 - f. Fire fighting activities.
3. Conditional Exemption of Discharges. The following discharges are exempt from discharge prohibitions established by this section as long as the waters contain no deleterious substances and the physical discharge does not cause the erosion of soil or suspension of any deleterious material:
 - a. Water main flushing (must not cause erosions);
 - b. Landscape irrigation or lawn watering;
 - c. Pumped ground water;
 - d. Foundation or footing drains or sump pumps;
 - e. Air conditioning condensation;
 - f. Washing of non-commercial vehicles;
 - g. Swimming pools (less than one ppm residual chlorine);
 - h. Agricultural runoff from sites employing conservation practices;
 - i. Cold water (or hot water with prior permission from the county), street washing or cosmetic cleansing;
 - j. Discharges specified in writing by the county as being necessary to protect public health and safety;

- k. Dye testing with notification to the county prior to the test; and
 - l. Discharges permitted under written NPDES permit, waiver, or EPA waste discharge order, provided that the discharger is in full compliance with the permit, waiver or order.
- B. Illicit Connections. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- C. Suspension of MS4 Access.
 - 1. Emergency Situations. The county may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents, or may present, imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
 - 2. Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the county through the board of county commissioners for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises for which access has been terminated pursuant to this section, without the prior approval of the county.

(Ord. No. 13-05, § G, 5-21-2013)

18.28.080 Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the county prior to the allowing of discharges to the MS4. Violations of said permit may be enforced under the provisions of this chapter.

(Ord. No. 13-05, § H, 5-21-2013)

18.28.090 Monitoring of discharges.

- A. Applicability. This section applies to all facilities that have stormwater discharges.
- B. Access to Facilities.
 - 1. Entry. The county shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in place, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow timely access to representatives of the authorized enforcement agency.
 - 2. Access and Records. Facility operators shall allow the county ready access to all parts of the premises for the purposes of inspection, records review, sampling and testing discharges for pollutants.
 - 3. Access Obstructed. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall promptly be removed by the operator at the written or oral request of the county and shall not be replaced. The costs of clearing such access shall be borne by the operator.

4. Access Delayed. Delays in allowing the county access to a site or facility that discharges stormwater is a violation of this chapter. A person who is the operator of a facility with a discharge of stormwater commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
 5. Access Denied. Denial of access to any premises or facility that discharges stormwater is a violation of this chapter. If there is reasonable cause to believe that an illicit discharge or illegal connection exists on the premises then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction in addition to other enforcement actions provided in this chapter.
- C. Monitoring by County. The county shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- D. Monitoring by Discharger. The county has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(Ord. No. 13-05, § I, 5-21-2013)

18.28.100 Prevention, control and reduction of pollutants.

The county may identify or approve the use of best management practices (BMPs) for any activity, operation, or facility, which may cause or contribute to pollution or contamination of stormwater, the stormwater drain system, or waters of the U.S. The owner or operator of any residential, institutional, governmental, commercial or industrial facility shall provide, at their expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, may be, or may become the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the discharge of pollutants to the separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit or a county erosion control permit.

(Ord. No. 13-05, § J, 5-21-2013)

18.28.110 Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, 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.

(Ord. No. 13-05, § K, 5-21-2013)

18.28.120 Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants

discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the county in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the county within three business days of the phone notice and mailed to the county at:

MS4				Coordinator
Porter	County		Administration	Building
155	Indiana	Avenue;	Suite	311
Valparaiso,		IN		46383
219-510-6050				
Facsimile: 219-465-3543				

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 13-05, § L, 5-21-2013)

18.28.130 Enforcement I.

Whenever the county finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the county may:

A. Notice of Violation and Order of Compliance.

1. Issue written notice to the owner and/or responsible person, or their representatives. Such notice may require without limitation:
 - a. The elimination of illicit connections or discharges;
 - b. The violating discharges, practices, or operations shall cease and desist;
 - c. The performance of monitoring, analyses, and reporting;
 - d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - e. The implementation of source control or treatment BMPs; and/or
 - f. The cessation of work until the violation is corrected.
2. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice may further advise that, should the violator fail to remediate or restore the affected property within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Levy Fine(s). Issue fines against said person and/or owner pursuant to the provisions of the county.

C. Withhold Permits. The county may refuse to issue permits such as erosion control, right-of-way cut, and/or site permits, from the person responsible for the violation. The permits to be withheld may be for sites other than that where the violations have occurred.

(Ord. No. 13-05, § M, 5-21-2013)

18.28.140 Appeal of enforcement I actions.

Any person receiving a notice of violation may appeal the determination to the Porter County board of commissioners. The notice of appeal must be received within ten days from the date of the notice of violation to the office of the MS4 coordinator. Hearing on the appeal before the board of county commissioners shall take place within thirty (30) days from the date of the receipt of the notice of appeal. The decision of the board of county commissioners shall be final.

(Ord. No. 13-05, § N, 5-21-2013)

18.28.150 Enforcement II.

- A. County to Correct/Abate, Cost to Owner/Responsible Person.
1. Corrective Action. If a violation has not been corrected pursuant to the conditions set forth in the notice of violation, then, representatives of the county may enter upon the subject's private property and take any and all measures necessary to abate the violation. It shall be unlawful to any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
 2. Notice of Payment Due. Within thirty (30) days after abatement of the violation, the county shall notify the owner of the property or responsible person in writing of the cost of abatement, including administrative and legal costs. The owner or responsible party shall pay said amount within thirty (30) days of the date of the invoice unless a longer time for payment is stipulated in the invoice. If the county allows a period for payment greater than thirty (30) days, the payments shall then be subject to interest at a rate not greater than allowed by statute.
 3. Lien on Property. If the amount due is not paid within thirty (30) days or the time stipulated in the invoice, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment and any interest. The county shall file and record said lien as provided by statute.
- B. Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Criminal Prosecution. Any person, or as defined in this chapter, that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of one thousand dollars (\$1,000.00) per violation per day and/or imprisonment for a period of time as set by the court.
- D. Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- E. Recover Costs. The county may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring costs.
- F. Remedies Not Exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 13-05, § O, 5-21-2013)

18.28.160 Effective date.

This chapter shall be in full force and effect after its passage and approval by the board of county commissioners of Porter County, Indiana, and publication as required by law.

(Ord. No. 13-05, § P, 5-21-2013)