

CITY-COUNTY GENERAL ORDINANCE NO.____, 2025

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana (Revised Code), concerning drainage and stormwater management.

WHEREAS, the City of Indianapolis (City) is the permittee of a Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Individual Permit, Permit Number INS040001, issued by the Indiana Department of Environmental Management (IDEM) with oversight by the United States Environmental Protection Agency (EPA); and

WHEREAS, the Indiana Department of Environmental Management (IDEM) issued the NPDES construction stormwater general permit (CSGP INRA00000) to regulate discharges of stormwater from construction activities into surface waters of the State of Indiana on December 9, 2021, effective December 18, 2021; and

WHEREAS, the City shall operate according to and seek additional legal authority as needed to enable compliance with the IDEM MS4 NPDES Individual Permit and the CSGP; and

WHEREAS, therefore, certain revisions to the Revised Code are required to update the City's stormwater management ordinances; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Section 261-502 of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by deleting the language that is stricken-through, to read as follows:

Sec. 261-502. - Marion County Stormwater Management Advisory Committee.

(a) The Marion County Stormwater Management Technical Advisory Committee ("technical advisory committee") is created to advise the board.

- (1) The technical advisory committee shall provide direction in the periodic update of the stormwater master plan by providing recommendations on watershed analysis, capital project need, priorities and engineering design and advising on other technical matters relating to stormwater quantity and quality issues in Marion County. The technical advisory committee's recommendations on the stormwater master plan, to the extent that is reasonable and feasible, shall coordinate the stormwater master plan with the following:
 - a. ~~Combined and sanitary overflow programs of CWA Authority;~~
 - b. ~~Efforts to phase out urban septic systems not designed for permanent public health protection;~~
 - c. ~~Marion County Health Department's mosquito control efforts and a rational wetland habitat protection policy;~~
 - d. Levee maintenance to address major river rises; and
 - e. Efforts to improve stormwater quality in Marion County surface ~~and ground~~ waters.
- (2) The technical advisory committee shall consist of six (6) members, who shall serve at the pleasure of the person or group that makes the appointment. Members shall be appointed as follows:

- a. Three (3) members shall be appointed by the mayor and shall be property owners in Marion County; no more than two (2) mayoral appointees shall be of the same political party; and
- b. Three (3) members shall be appointed by the city-county council and shall be property owners in Marion County. Two (2) council appointees shall be appointed upon nomination of the majority leader and one (1) shall be appointed upon nomination by the minority leader. No more than two (2) council appointees shall be of the same political party.

All persons appointed shall have suitable technical experience and training, preferably in water management, to participate in the tasks set forth for the committee. All committee members may be appointed for successive terms. Vacancies occurring by reason of death, resignation or removal, shall be filled by the official or group that made the appointment for the balance of the unexpired term.

(3) All members shall be appointed for three-year terms ending on December 31.

(b) Technical advisory committee meetings shall be scheduled by the department and shall be open to the public.

(G.O. 43, 2001, § 3; G.O. 13, 2010, § 2; G.O. 36, 2011, § 16; G.O. 16, 2022, § 3)

SECTION 2. Section 561-109 of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and by deleting the language that is stricken-through, to read as follows:

Sec. 561-109. "Land alteration" defined.

As used herein, "land alteration" shall mean any action taken relative to land which either:

- (1) Changes the contour;
- (2) Increases the runoff rate;
- (3) Changes the elevation;
- (4) Encroaches upon a regulated drain and its associated right-of-way;
- ~~(54)~~ Decreases the rate at which water is absorbed;
- ~~(65)~~ Changes the drainage pattern;
- ~~(76)~~ Creates, removes or changes a drainage facility;
- ~~(87)~~ Involves construction, enlargement or location of any building on a permanent foundation;
- ~~(98)~~ Creates an impoundment; or
- (109) Alters Disturbs soil on a levee, dam or within a levee or dam easement.

Land alteration includes (by way of example and not of limitation) terracing, grading, excavating, constructing earthwork, draining, installing drainage tile, filling and paving.

(Code 1975, § 10½-9; G.O. 16, 2022, § 9)

SECTION 3. Section 561-221 of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined to read as follows:

Sec. 561-221. When drainage permits required; enforcement; exceptions.

- (a) Except for activity specified in subsection (c), it shall be unlawful for a person, partnership or corporation to undertake or accomplish any land alteration without having in force a written drainage permit obtained from the division of construction and business services. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the department of business and neighborhood services.

- (b) Soil disturbance on a levee, dam or within a levee or dam easement shall not be exempt from drainage permitting.
- (c) The permit specified in subsection (a) shall not be required for:
 - (1) Excavation of cemetery graves;
 - (2) Refuse disposal sites where storm drainage is controlled by other regulations;
 - (3) Excavation for wells, excavation and backfills for poles, conduits, and wires of utility companies which result in land alteration 1,000 square feet or less;
 - (4) Exploratory excavations or soil testing under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, that are backfilled;
 - (5) Ordinary cultivation of agricultural land including tilling and crop irrigation which does not result in a change in stormwater discharge location, volume or velocity at the property border;
 - (6) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and landscaping of land which result in land alteration of 1,000 square feet or less;
 - (7) Fill and grading of
 - a) a former basement site or
 - b) an inground poolafter the demolition of a structure to conform the land to adjacent terrain pursuant to a wrecking permit obtained for that purpose;
 - (8) Fill of holes of less than 500 square feet caused by erosion, settling of earth or the removal of such materials as dead trees, posts or concrete;
 - (9) A fill less than one (1) foot in depth, and placed on natural terrain with a slope flatter than ten (10) percent, not intended to support structures, that does not exceed fifty (50) cubic yards per acre and does not obstruct or change drainage;
 - (10) Maintenance of a drainage facility so that it will perform as it was designed and constructed which results in land alteration of 1,000 square feet or less;
 - (11) Installation of a septic system pursuant to a permit obtained for that purpose;
 - (12) Repair or reconstruction of an existing driveway, in kind, pursuant to a permit obtained for that purpose;
 - (13) Installation of building sewers pursuant to a permit obtained for that purpose;
 - (14) An enlargement or exterior change of 200 square feet or less to an existing structure when no part of the structure or the enlargement or exterior change to the structure is located in an impacted drainage area;
 - (15) Placement of an accessory structure that is 200 square feet in size or less to a one- or two-family dwelling and is not located on a permanent foundation;
 - (16) Exterior changes to a structure that do not change the ground floor area of the structure, unless the roof of the building is part of a stormwater retention-detention system; or
 - (17) Construction of a deck that extends over open ground at least eight (8) feet above grade or that is constructed so that water freely and directly flows through the deck to the ground below the deck.
 - (18) Public projects owned and administered by the Engineering division of the Department of Public Works.
- (d) The drainage permit must be obtained before any work is initiated, except for testing to determine procedures or materials.

(Code 1975, § 10½-30; G.O. 168, 1999, § 12; G.O. 15, 2001, § 53; G.O. 3, 2002, § 9; G.O. 63, 2009, § 39; G.O. 41, 2016, § 2; G.O. 16, 2022, § 12; G.O. 33, 2023, § 2)

SECTION 4. Section 561-227 of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Sec. 561-227. Notice of change in permit information; amendment of permits and plans.

(a) After a permit has been issued, the permittee shall give prompt written notice to the administrator and/or designee, as assigned by the deputy director of the division of construction and business services of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, ~~any material deviations from the or change in the information contained in the permit application or in the~~ approved site development plans and/or specifications as listed below shall be considered an amendment subject to approval by the administrator and/or designee as assigned by the deputy director of the division. Prior to the time land alteration involving the change occurs, the permittee shall file with the administrator a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

1. Pipe size changes.

2. Pipe grade changes that will affect the hydraulic capacity of the drainage facilities.

3. Drainage facility horizontal alignment changes greater than five (5) feet. Where the proposed drainage facility has been required to be constructed within a right-of-way or stormwater easement, horizontal changes that place the drainage facility outside of the limits of the right-of-way or stormwater easement area will not be accepted by the division. Storm drains constructed on privately owned property, outside of public rights-of-way or stormwater easements, may vary more than five (5) feet in the horizontal alignment, provided the hydraulic performance of the facility has not been altered, and no other portion of the approved construction plans has been changed. All stormwater quality and quantity best management practices shall continue to be entirely within an easement.

4. Construction materials and installation that are not in conformance with the requirement of the Stormwater Design and Construction Specifications Manual.

5. Changes in grade and/or land cover of the site that will affect the stormwater direction, velocity, amount, or concentration.

6. Changes to stormwater quality and/or quantity best management practices.

(c) The administrator as assigned by the deputy director of the division shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans.

(d) The administrator as assigned by the deputy director of the division may approve an amendment to a permit or approved plans under this section upon the payment of the applicable fee as computed in accordance with Division 8 of Article II of this chapter. Reinspection fees or other fees that are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

(Code 1975, § 10½-36; G.O. 168, 1999, § 14; G.O. 3, 2002, § 10; G.O. 63, 2009, § 40; G.O. 41, 2016, § 2)

SECTION 5. Section 561-234, of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Sec. 561-234. Operations and maintenance manual.

The administrator as assigned by the deputy director of the division of construction and business services shall, as a prerequisite to issuance of a drainage permit, require the recording of an operations and maintenance manual for the water quality and quantity best management practices~~drainage facilities~~ constructed pursuant to the permit as necessary to achieve satisfactory present and future function of the best management practices~~drainage facilities~~.

(G.O. 16, 2022, § 19)

SECTION 6. Section 561-252, of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Sec. 561-252. Inspection and maintenance of drainage facilities; records.

- (a) It shall be the duty of the owner of property on which there are drainage facilities to inspect the facilities at minimum one (1) time each calendar year. If there is a recorded operations and maintenance manual for a drainage facility, then inspections shall be carried out in accordance with the manual.
- (b) It shall be the duty of the owner of property on which there are drainage facilities to perform such maintenance of the facility as necessary for the facility to function as designed, permitted and constructed.
- (c) The property owner shall maintain written records of drainage facility inspections and maintenance for a minimum of five (5) years from the date of the inspection. If an inspection determines that no maintenance is needed, such determination shall be documented in the records. The property owner shall make such records available to the division of construction and business services in a digital format within forty-eight (48) hours of a request for the records.
- (d) Upon request by the division, owners of property on which there are drainage facilities shall self-certify that the facilities were inspected and maintained as required by the operations and maintenance manual and functions as designed. Such certification shall be made in a form prescribed by the division and shall be submitted within a reasonable period of time as determined by the administrator as assigned by the deputy director of the division.
- (e) If a drainage facility is located on common property, does not have a single owner or is intended to benefit more than one property, then all property owners whose drainage flows to the drainage facility are responsible for compliance with this section.
- (f) If the property owner fails to provide the inspection and maintenance records or the self-certification within the timeframe provided in the requests described above, the division may inspect the drainage~~stormwater~~ facility and bill the property owner for costs incurred in doing so, which costs shall be due thirty (30) days after the date of the bill. Delinquent inspection costs shall constitute a lien against the real property and shall be certified to the auditor and collected as provided in IC 36-7-5.

(G.O. 16, 2022, § 22)

SECTION 7. Section 561-271, of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Sec. 561-271. Variance procedure.

(a) The administrator and/or designee, as assigned by the department of public works deputy director ~~of the division construction and business services, after consultation with the engineering division of the department of public works,~~ of the engineering division shall have the power to modify or waive any minimum drainage standard found in Article III of this chapter or any regulations promulgated by the board of public works pursuant to Article III of this chapter. The administrator and/or designee, may, but is not required to, grant such a modification or waiver if an applicant for a drainage permit makes a substantial showing provides a justification demonstrating:

(1) That a minimum drainage standard regulation is infeasible ~~or unreasonably burdensome~~; and

(2) That an alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum drainage standards and regulations.

(b) The request for a variance together with supporting information shall be made in writing to the administrator as assigned by the deputy director of the engineering division of the department of public works who shall ~~make issue~~ a written decision within twenty (20) business days. ~~and file a copy of his or her decision with the board of public works. A copy of the decision shall be retained with the permit file and available to review by the board of public works.~~

(Code 1975, § 10½-80; G.O. 15, 2001, § 59; G.O. 3, 2002, § 16; G.O. 63, 2009, § 46; G.O. 41, 2016, § 2)

SECTION 8. Section 561-272, of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Sec. 561-272. - Appeals.

An applicant may appeal to the board of public works the decision of the administrator as assigned by the deputy director of the engineering division of the department of public works ~~division of construction and business services~~ denying or partially approving a requested variance. The appeal of the administrator's decision shall be filed with the board within twenty (20) business days of the decision. An applicant may cause the variance request to be scheduled before the board of public works in the instance where the administrator has failed to make a decision for a period of twenty (20) business days after receiving the written request for a variance. The board shall hear the request for the variance de novo at a regular meeting and in making a decision shall apply the standards set forth in section 561-271.

(Code 1975, § 10½-81; G.O. 15, 2001, § 59; G.O. 3, 2002, § 16; G.O. 63, 2009, § 46; G.O. 41, 2016, § 2)

SECTION 9. Section 575-2, of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Sec. 575-2. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely directory.

Authorized individual means a designee of the director of the department of business and neighborhood services.

Environmental public nuisance means:

- (1) Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
- (2) Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
- (3) A drainage ~~or stormwater management~~ facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter;
- (4) Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard; or
- (5) Any non-stormwater discharge to a municipal separate storm sewer, combined sewer or surface water body, except for the following allowable discharges:
 - a. Snowmelt;
 - b. ~~Compliant d~~ischarges regulated by a National Pollution Discharge Elimination System (NPDES) permit;
 - c. Water line and hydrant flushing for maintenance;
 - d. Landscape and lawn irrigation and watering;
 - e. Diverted stream flows;
 - f. Uncontaminated footing, ~~and~~ foundation, and crawl space drains;
 - g. Uncontaminated ground water;
 - h. Fire ~~suppression~~fighting activities;
 - i. Springs;
 - j. Dechlorinated/~~de~~brominated swimming pool discharges;
 - k. Non-commercial car washing by non-profit organizations;
 - l. Residential car washing; and
 - m. Uncontaminated condensate from air conditioning units, coolers and other compressors and from outside storage of refrigerated gases or liquids;
 - n. Vehicle and external building wash down, without detergents;
 - o. Detergent-free pavement wash water without spill or leaks of toxic or hazardous materials, unless the materials have been removed; and-
 - p. Uncontaminated excess storm sewer cleaning water not collected by a vacuum.

Equipment means such equipment as trucks, tractors, bulldozers and similar motor vehicles and hand-operated equipment such as weed trimmers and similar equipment.

Excluded property means:

- (1) Cultivated land in commercial, domestic, agricultural or horticultural use;

- (2) An existing natural or developed forest that does not create a health or safety hazard;
- (3) Vacant, open lands, fields or wooded areas more than one hundred fifty (150) feet from occupied property;
- (4) A nature habitat area more than one hundred fifty (150) feet from an occupied structure on adjacent property and determined by state and/or local governmental health authorities not to be a health or safety hazard;
- (5) A wetland area designated by the United States Department of Interior Fish and Wildlife Division on a National Wetlands Inventory Map and/or determined to be a wetland area by the Department of public works;
- (6) The portion of real property designated as a rain garden area and registered with the city's rain garden registry and agreement program; or
- (7) The portion of real property designated as a native wildlife planting area and registered with the city's native wildlife planting registry and agreement program.

Governmental property means real estate that is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.

Occupant means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or entity who is from time to time in possession or exercising dominion and control over the real estate or any house or other structure located thereon. *Occupant* shall include any lessee of the property.

Owner means the record owner or owners as reflected by the most current records in the county assessor's office.

Private property means all real estate within the city except governmental property.

Recipient means the owner or occupant to whom notice of violation has been directed.

Repeat violation occurs when a property owner or occupant who has previously been issued notice of a similar environmental public nuisance for the same property or who has been found by a hearing or judicial officer to have allowed a similar environmental public nuisance to exist at the same property allows a subsequent similar environmental public nuisance to exist at that property within eighteen (18) months of the date of the previous notice or finding of violation, whichever is later. A repeat violation does not occur when multiple violations of subsection (4) of the definition of environmental public nuisance are alleged and:

- (1) The owner or occupant can demonstrate that illegal dumping was the cause of the underlying violations; and
- (2) The owner or occupant has made a reasonable effort to prevent illegal dumping from recurring.

SECTION 10. Section 676-303, of the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana is hereby amended by adding the language that is underlined and deleting the language that is stricken-through, to read as follows:

Sec. 676-303. Credits.

(a) *Credit availability.*

- (1) *Residential.* A credit to the stormwater user fee imposed on residential parcels may be available, upon application to the department, for parcels that meets the following criteria:
 - a. A single residential credit up to, but not more than, twenty-five (25) percent is available to applicants who own and reside at a parcel and show that an approved stormwater managementdrainage facility has been constructed and effectively implemented on the parcel. Approved stormwater management facilities eligible for the credit include:
 1. Rain gardens;

2. On-site stormwater storage; and
3. Vegetated filter strips.

Application process: Details of the credit, including parameters and application procedures shall be set forth in the stormwater credit manual.