

REGULAR MEETING – JANUARY 16, 2007

The Common Council of the City of Michigan City, Indiana, met in regular session on Tuesday Evening, January 16, 2007, at the hour of 7:30 p.m., local time, in the Common Council Chambers, located in the lower level of the City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana.

The meeting was called to order at 7:30 p.m. by Council President Willie Milsap, who presided.

The Pledge of Allegiance to the Flag and a short period of silent prayer were observed.

Roll call was authorized and the following were noted present and/or absent:

PRESENT: COUNCIL MEMBERS Evelyn D. Baker; Patricia Boy; Joseph Doyle; Phillip Jankowski; Charles Lungren; Virginia Martin; Ronald Meer, Willie Millsap, Paul Przybylinski; (9)

ABSENT: None (0).

A QUORUM WAS NOTED PRESENT.

2007 COMMITTEE ASSIGNMENTS

President Milsap made the following committee assignments, while stating that some may be changed:

COMMITTEE ASSIGNMENTS Revised January 5, 2007	
Standing Committees (All Council Members-)	
Finance	Co-Chair: Phil Jankowski, Chuck Lungren
Humane Activities	Willie Milsap
Judiciary and Rules (Parliamentarian)	Paul Przybylinski
Licenses and Franchises	Willie Milsap
Parks and Recreation	Joe Doyle, Phil Jankowski
Planning and Zoning	Patricia Boy
Public Health and Safety	Willie Milsap, Ron Meer
Streets and Alleys	Ron Meer, Willie Milsap
Tree Board	Patricia Boy
Utilities (Water & Sanitary)	Evelyn Baker, Paul Przybylinski, Chuck Lungren
Waters and Harbors	Paul Przybylinski
Special Committees	
Ethics	Virginia Martin, Ron Meer, Joe Doyle
Fire Merit Commission and Police Commission	Patricia Boy, Phil Jankowski
Labor Relations	Patricia Boy, Phil Jankowski, Joe Doyle
Solid Waste Management District Board	Paul Przybylinski
Summer Festival	Joe Doyle, Evelyn Baker
Tax Abatement	Evelyn Baker, Virginia Martin, Phil Jankowski
Social Status of African American Males	Ron Meer

Liaisons	
Airport Commission	Joe Doyle
Economic Development	Evelyn Baker, Phil Jankowski, Paul Przybylinski
Urban Enterprise Zone	Willie Milsap
Historical Review Board	Paul Przybylinski
Housing Authority	Willie Milsap
Human Relations	Willie Milsap
Redevelopment Commission	Phil Jankowski
Education	Ron Meer

REPORTS of STANDING COMMITTEES

Councilman Doyle stated the Park Department wanted to thank the Council and General Public in the participation in the Master Plan. Mr. Doyle announced that the Summer Festival Committee's Dinner/Dance is this Saturday, January 20, 2007. He advised the Council that they will have an updated list of Summer Festival Events by the next Council meeting (February 6, 2007).

Councilwoman Martin stated the status of the January 13, 2007 executive meeting regarding the hiring of the Common Council Attorney. Mrs. Martin called for executive session to be held February 6, 2007 at 6:00 p.m. in the Mayors Chambers.

APPROVAL of MINUTES

President Milsap inquired whether there were any corrections, deletions, or additions to the minutes of the Regular Meeting of January 2, 2007, and, hearing none, the minutes were approved as printed.

REPORTS OF SPECIAL OR SELECT COMMITTEES

Councilman Doyle stated that he met with the President of the Landlord Association, that they are reviewing the Ordinances that were recommended by the committee. Mr. Doyle advised they will be contacting us with some of their thoughts and recommendations.

REPORTS of OTHER CITY OFFICERS and DEPARTMENTS

President Milsap asked the Clerk to draft a letter to John Pugh, Director, Planning and Inspection, requesting the status of the Warren Building in Franklin Square. Mr. Milsap stated the status of the Warren Building in Franklin Square will be on the Agenda to discuss at the next Council Meeting (February 6, 2007).

PETITIONS

There were no Petitions

COMMUNICATIONS

The Clerk read the following letter addressed to the Honorable Charles Oberlie, Mayor, from Phil Jankowski, 6th Ward Councilman regarding tax relief:

In the past you have provided for property tax relief in your proposed budgets. As you develop your 2008 Budget, I ask you to include a provision for additional property tax relief.

Below I have provided a draft of an ordinance (based on an existing East Chicago Ordinance), which will essentially provide \$500 of property tax relief to resident homeowner. As of this date I have not received

requested information from the County Auditor. However, based on census data, I estimate the cost of this proposal to be less than \$3.8 million.

Thank you for your consideration of this matter. I would be happy to discuss at your convenience.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY APPROPRIATING CERTAIN GAMING REVENUE AND DECLARING AN EMERGENCY

WHEREAS, an emergency exists necessitating that the City establish a tax relief program for the tax year 2007, payable 2008: and

WHEREAS, LaPorte County has undergone a county wide tax reassessment; and

WHEREAS, the City desires to provide tax relief for the Michigan City residents receiving Homestead Exemptions.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City as follows:

1. The sum of \$TBD million of gaming revue is hereby appropriated for property tax relief a specified herein.
2. All Michigan City property designated with a Homestead Exemption shall receive a reduction in property tax bill for the calendar year 2007 payable 2008 in an amount equal to 50% percent of that year's taxes up to and not exceeding a total reduction of \$500.00
3. The City shall deposit with the county treasurer on or before May 1, 2008, a sum not to exceed \$TBD million which money shall fund the foregoing tax relief program.
4. No property currently benefiting from or receiving tax abatement shall be eligible for tax reduction of the tax relief program provided by this Ordinance.
5. Any eligible property owner who has paid their tax bill in full prior to adoption of this ordinance will be given assistance by the City Controller's Office in obtaining a refund.

Introduced by: Phil Jankowski, Member

Councilman Jankowski stated that the letter was self explanatory, that he thought this ordinance would encourage home ownership in our community. Councilman Przybylinski requested to be a Co-sponsor on this ordinance.

RESOLUTIONS

There were no Resolution

ORDINANCES

The Clerk read on first reading by title only, **AN ORDINANCE TO AMEND ORDINANCE 2560 AND ALL SUBSEQUENTLY ENACTED AMENDING ORDINANCES THERETO, ALL COLLECTIVELY KNOWN AS THE FIRE MERIT ORDINANCE OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA, ALSO KNOWN AS THE MICHIGAN CITY MUNICIPAL CODE SECTION 54-173 (1) et. seq.**

Introduced by Pat Boy.

Councilwoman Pat Boy stated that the Fire Merit Commission was concerned about the cost of the testing that was done this session. Mrs. Boy stated that the cost was more expensive than it has in the past, that the Fire Commission is concerned that doing the testing every year would cost the City more money than they need to.

Fire Merit Commission President, John Skierkowski, commented on reasons the Fire Merit Commission supports

this amendment. Mr. Skierkowski stated the cost of the tests, mailings, brochures, study guides, administration, and interview training was approximately \$8,000.

Councilwoman Martin asked Mr. Skierkowski several questions regarding the breakdown of the \$8,000. Mrs. Martin commented on the amendments that have been brought to the Board. Councilwoman Martin and Mr. Skierkowski discussed the status of the final list for the hiring.

Councilman Przybylinski and Meer commented on the procedures of hiring and reasons why the Ordinance should not change.

Councilwoman Boy requested a brake down of the \$8,000 to be given to each Council Member from Fire Merit Commission President John Skierkowski. Mr. Skierkowski stated he would furnish the council with that information.

Larry Silvestri, 414 E. Coolspring commented \$8,000 in a City of approximately 32,000 people is 25 cents per year per person. Mr. Silvestri stated that the test should be done every year, that cost shouldn't be an issue.

The Ordinance was laid over for second reading.

The Clerk read on third reading by title only,

ORDINANCE NO. [3998](#)

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, REGULATING ILLICIT DISCHARGES AND CONNECTIONS TO STORM DRAINAGE SYSTEMS

WHEREAS, the purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Michigan City, 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; and,

WHEREAS, the establishment of methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) are required in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process; and,

WHEREAS, the Common Council of the City of Michigan City, Indiana, desires to:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

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

SECTION 1: Short Title.

This ordinance shall be known as the "MS4 Illicit Discharges and Connections Program."

SECTION 2: Purpose.

The purpose of this ordinance is to meet the requirements of IDEM Rule 327 IAC 15-13 (Rule 13).

SECTION 3: Definitions.

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

- A. "**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.
- B. "**City**" means the Civil City of Michigan City, Indiana.

- C. **“Clean Water Act”** means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- D. **“Construction Activity”** means activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- E. **“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.
- F. **“Illegal Discharge”** means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 5 of this ordinance.
- G. **“Illicit Connections”** are defined as either of the following: 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 City or, 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 City.
- H. **“Industrial Activity”** means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- I. **“MS4”** means Municipal Separate Storm Sewer System as defined in 327 IAC 15-5 and 327 IAC 15-13.
- J. **“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 USC § 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.
- K. **“Non-Stormwater Discharge”** means any discharge to the storm drain system that is not composed entirely of stormwater.
- L. **“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.
- M. **“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 coliform 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.
- N. **“Premises”** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- O. **“Storm Drainage System”** means publicly-owned 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.
- P. **“Stormwater”** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- Q. **“Stormwater Pollution Prevention Plan”** 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.
- R. **“Wastewater”** means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

SECTION 4: Applicability.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City.

SECTION 5: Discharge Prohibitions.

- A. Prohibition of illegal discharges.
- 1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
 - 2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
- b) Discharges specified in writing by the City as being necessary to protect public health and safety.
- c) Dye testing is an allowable discharge, but requires a verbal notification to the City prior to the time of the test.
- d) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Indiana Department of Environmental Management (IDEM) or the Federal Environmental Protection Agency (US EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

B. Prohibition of illegal connections.

- 1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- 2) 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.
- 3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

SECTION 6: Suspension of MS4 access.

- A. Suspension due to Illicit Discharges in Emergency Situations. The City 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 City 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.
- B. Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for a reconsideration and hearing.
- C. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City.

SECTION 7: 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 City prior to the allowing of discharges to the MS4.

SECTION 8: Monitoring of discharges.

- A. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- B. Access to Facilities.
 - 1) The City shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the City.
 - 2) Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - 3) The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City, or its designee, to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - 4) The City 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.
 - 5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - 6) Unreasonable delays in allowing the City access to a permitted facility are a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

- 7) If the City has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 9: Environmental Considerations.

- A. Requirement to prevent, control and reduce stormwater pollutants by the use of Best Management Practices. This ordinance approves the requirements of the Indiana Department of Environmental Management (IDEM) "Indiana Stormwater Quality Manual," the U.S. Department of Agriculture "Urban Watershed Forestry Manual" and the "Indiana Drainage Handbook", as well as other approved resources identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal 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, or may be, 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 further discharge of pollutants to the municipal 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 compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.
- B. 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.
- C. 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 authorized enforcement agency 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 City within three business days of the phone notice. 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.

SECTION 10: Enforcement.

- A. Notice of violation.
- 1) Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
 - a) The performance of monitoring, analyses, and reporting.
 - b) The elimination of illicit connections or discharges.
 - c) That violating discharges, practices, or operations shall cease and desist.
 - d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
 - e) Payment of a fine to cover administrative and remediation costs.
 - f) The implementation of source control or treatment BMPs.
 - 2) If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor and the expense thereof shall be charged to the violator.
- B. Appeal of notice of violation. Any person receiving a Notice of Violation may appeal the determination of the City. The notice of appeal must be received within 10 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the City shall be final.
- C. Enforcement measures after appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the City, then representatives of the City shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or its designated contractor to enter upon the premises for the purposes set forth above.

- D. Cost of abatement of the violation. Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the City or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment, as well as any costs and fees incurred.
- E. Injunctive relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City 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.
- F. Compensatory action. In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the City may impose upon a violator, alternative compensatory actions such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.
- G. 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 ordinance 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 a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- H. Civil Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be punished by a fine of not more than \$2,500.00 for each violation. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- I. Remedies not exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City, or its designee to seek cumulative remedies.

SECTION 11: Administration.

The Mayor, through the Sanitary District of Michigan City, is hereby authorized to implement and monitor all aspects of this ordinance.

SECTION 12: Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance 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 ordinance.

SECTION 13: Ultimate Responsibility.

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

INTRODUCED BY: /s/ Evelyn Baker

CO-SPONSOR: /s/ Charles Lungren

Councilwoman Baker moved to adopt the Ordinance, then stated there would be an amendment. It was seconded by Councilman Doyle.

Councilwoman Baker asked Al Walus, Manager of Sanitary District to explain the amendment to this Ordinance.

Al Walus, Manager of Sanitary District explained the recommended amendment, then read the changes as follows: paragraph H, "Civil Penalties." In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be punished by a fine of **not more than \$2,500.00 for each violation**. Such person shall be guilty of separate offense for each day during which the violation occurs or continues.

Councilwoman Martin moved to adopt the amendment, seconded by Councilman Lungren. The motion carried as follows and the Amendment was adopted: **AYES: COUNCIL MEMBERS Martin, Meer, Milsap, Przybylinski, Baker, Boy, Doyle, Jankowski, and Lungren (9). NAYS: None (0).**

Councilman Meer moved for adoption of this Ordinance, seconded by Councilman Doyle

There was a discussion by Al Walus, Manager, Mike Hoffman, Sanitary District, Collection System Superintendent and Councilman Przybylinski.

The motion carried and the Ordinance, as amended, was adopted by the following vote: **AYES: COUNCIL MEMBERS Meer, Milsap, Przybylinski, Baker, Boy, Doyle, Jankowski, Lungren, and Martin (9). NAYS: None (0).**

The Clerk read on third reading only,

ORDINANCE NO. [3999](#)

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF
MICHIGAN CITY, INDIANA, REGULATING POST-CONSTRUCTION
ACTIVITY AND STORMWATER MANAGEMENT**

WHEREAS, the purpose of this ordinance is to establish requirements within the City of Michigan City for stormwater discharges from post-construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected. This ordinance will promote the public welfare by guiding, regulating and controlling the design, construction, inspection, use and post-construction maintenance and stormwater management of any development or other activity that disturbed or broke the topsoil and resulted in the movement of earth in the City of Michigan City; and,

WHEREAS, after the construction process, and prior to the establishment of permanent vegetative cover, soil is vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair/maintenance of sewers and ditches and the dredging of lakes and streams; and,

WHEREAS, the Federal Clean Water Act, 33 U.S.C. 1251 et seq. and Indiana State Regulation 327 IAC 15-13, Stormwater Run-off Associated with Municipal Separate Storm Sewer System Conveyances (Rule 13), designates the City of Michigan City, Indiana as a Municipal Separate Storm Sewer System (MS4). As a designated MS4, the City of Michigan City is required to implement, manage and enforce a program to reduce or eliminate pollutants in stormwater runoff from post-construction activities that result in land disturbance equal to or greater than one (1) acre and control of stormwater discharges from post-construction activity disturbing less than one (1) acre if that post-construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more; and,

WHEREAS, Indiana State Regulation 327 IAC 15-5, Stormwater Run-off Associated with Construction Activity (Rule 5), established specific minimum requirements for control of stormwater runoff associated with post-construction activity and stormwater management. The requirements of Rule 5 shall be met except as specifically noted herein.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, Indiana, that:

SECTION 1: Short Title.

This ordinance shall be known as the “MS4 Post-Construction Activity Stormwater Management Plan Program.”

SECTION 2: Purpose.

The purpose of this ordinance is to meet the requirements of IDEM Rule 327 IAC 15-13 (Rule 13).

SECTION 3: Definitions.

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

- A. **“Accelerated Erosion”** means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.
- B. **“Applicant”** means a property owner or agent of a property owner who has filed an application for a stormwater management permit.
- C. **“Best Management Practice”** or **“BMP”** means any structural or non-structural control measure utilized to improve the quality and, as appropriate, the quantity of stormwater runoff.
- D. **“Building”** means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.
- E. **“Channel”** means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- F. **“City”** means the Civil City of Michigan City, Indiana.
- G. **“Dedication”** means the deliberate appropriation of property by its owner for general public use.
- H. **“Detention”** means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
- I. **“Detention Facility”** means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.
- J. **“Developer”** means a person who undertakes land disturbance activities.
- K. **“Drainage Easement”** means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
- L. **“Erosion and Sediment Control Plan (ESCP)”** means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- M. **“Fee in Lieu”** means a payment of money in place of meeting all or part of the stormwater performance standards required by this ordinance.
- N. **“Hotspot”** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
- O. **“Hydrologic Soil Group (HSG)”** means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

- P. **“Impervious Cover”** means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).
- Q. **“Industrial Stormwater Permit”** means a National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- R. **“Infiltration”** means the process of percolating stormwater into the subsoil.
- S. **“Infiltration Facility”** means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.
- T. **“Jurisdictional Wetland”** means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- U. **“Land Disturbance Activity”** means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
- V. **“Landowner”** means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
- W. **“Maintenance Agreement”** means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- X. **“MS4 Advisory Committee”** means those appointed representatives of the municipal and county entities who administer the MS4 Program under the permit issued by IDEM.
- Y. **“MS4 Coordinator”** means a designated representative of the City responsible for assisting in the implementation and management of the Stormwater Quality Management Program for the City.
- Z. **“Non-point Source Pollution”** means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- AA. **“Offset Fee”** means a monetary compensation paid to a local government for failure to meet pollutant load reduction targets.
- BB. **“Off-Site Facility”** means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
- CC. **“On-Site Facility”** means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.
- DD. **“Recharge”** means the replenishment of underground water reserves.
- EE. **“Redevelopment”** means any construction, alteration or improvement equal to or greater than 43,560 square feet (1 acre) in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.
- FF. **“Rule 5” and “Rule 13”** mean 327 IAC 15-5 and 327 IAC 15-13, respectively. The Indiana Department of Environmental Management (IDEM) has the authority to administer the Erosion Control Program under Rule 5. When IDEM approves the transfer of the Erosion Control Program to MS4 entities, such authority will be by Rule 13 in the MS4 areas only. Rule 5 will continue to apply to non-MS4 areas of the state. The issuance of an authorization letter by IDEM will determine which rule will have precedence or apply.
- GG. **“Stop Work Order”** means an order issued which requires that all construction activity on a site be stopped.
- HH. **“Stormwater Management”** means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality habitat.
- II. **“Stormwater Retrofit”** means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.
- JJ. **“Stormwater Runoff”** means flow on the surface of the ground, resulting from precipitation.
- KK. **“Stormwater Treatment Practices (STP’s)”** means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.
- LL. **“Water Quality Volume (WQ_v)”** means the storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically WQ_v will vary as a function of long term rainfall statistical data.
- MM. **“Watercourse”** means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

SECTION 3: Applicability.

- A. This ordinance shall be applicable to all subdivision or site plan applications with land disturbances effecting one acre or more unless eligible for an exemption or granted a waiver by the MS4 Coordinator under the specifications of Section 7 of this ordinance. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

- B. To prevent the adverse impacts of stormwater runoff, the City has developed a set of performance standards that must be met at new development sites. The following activities are exempt from these stormwater performance criteria:
- 1) Additions or modifications to existing single family structures;
 - 2) Developments that do not disturb more than 43,560 square feet (1 acre) of land, provided they are not part of a larger common development plan;
 - 3) Repairs to any stormwater treatment practice deemed necessary by the Sanitary District of Michigan City.
- C. When a site development plan is submitted that qualifies as a redevelopment project as defined in Section 2 of this ordinance, decisions on permitting and on-site stormwater requirements shall be governed by stormwater sizing criteria found in the Reference Manuals noted in Section 5. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the MS4 Coordinator.

SECTION 4: Compatibility with Other Permit and Ordinance Requirements.

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SECTION 5: Reference Manuals.

- A. Information pertaining to Best Management Practices that can assist developers in meeting the requirements of this ordinance can be found in the following reference manuals:
- 1) The Indiana Department of Environmental Management (IDEM) "Indiana Stormwater Quality Manual";
 - 2) The U.S. Department of Agriculture "Urban Watershed Forestry Manual";
 - 3) The "Indiana Drainage Handbook".
- B. If there are any conflicts with this ordinance and/or any existing Michigan City ordinances with the above named Reference Manuals, the Michigan City ordinances shall supersede.

SECTION 6: Permit Procedures and Requirements.

- A. Permit Requirements. No land owner or developer shall commence any land disturbance activities without first meeting the requirements of the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance, including, where applicable, obtaining a Site Development Permit based upon an Erosion and Sediment Control Plan (ESCP) approved by the MS4 Coordinator.
- B. Application Requirements.
- 1) Unless specifically excluded by this ordinance, any land owner or developer desiring a permit for a land disturbance activity shall submit to the MS4 Coordinator a permit application on a form provided for that purpose.
 - 2) Unless otherwise excepted by this ordinance, a permit application must be accompanied by the following in order that the permit application be considered:
 - a) a Stormwater Management Plan; and
 - b) a maintenance agreement.
 - 3) The Stormwater Management Plan shall be prepared to meet the requirements of Sections 10 through 12 of this ordinance; the maintenance agreement shall be prepared to meet the requirements of Section 14 of this ordinance.
 - 4) The Stormwater Management Plan and maintenance agreement shall be submitted as part of the ESCP submitted to the MS4 Coordinator as part of the compliance requirements contained within the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance.
- C. Application Review Fees. The Site Development Permit Fee submitted with the ESCP pursuant to the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance shall satisfy the application fee for review of the Stormwater Management Plan.
- D. Application Procedure.
- 1) Applications for land disturbance activity permits must be filed with the MS4 Coordinator.
 - 2) The Stormwater Management Plan and maintenance agreement shall be submitted by the construction project site owner in triplicate to the MS4 Coordinator, within the same application required for the ESCP submittal as part of the "MS4 Construction Activity Erosion and Sediment Control Program" ordinance.
 - 3) Within 20 business days of the receipt of a complete permit application including all documents as required by this ordinance, the MS4 Coordinator shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
 - 4) If the permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement. If additional information is submitted, the MS4 Coordinator shall have five business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - 5) If the permit application, final stormwater management plan and maintenance agreement are approved by the MS4 Coordinator, all appropriate land disturbance activity permits shall be issued.

- E. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the MS4 Coordinator notifies the permit holder that all stormwater management practices have passed the final inspection requirements under permit condition.

SECTION 7: Waivers for Providing Stormwater Management.

- A. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the MS4 Coordinator for approval.
- B. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
- 1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
 - 2) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City and the implementation of the plan is required by local ordinance.
 - 3) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.
 - 4) The MS4 Coordinator finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.
 - 5) Non-structural practices, as explained in the Reference Manuals listed in Section 5, will be implemented, with the amount of credit available for using such practices as determined by the MS4 Coordinator. Non-structural practices will be used on the site that reduce:
 - a) the generation of stormwater from the site;
 - b) the size and cost of stormwater storage; and,
 - c) the pollutants generated at the site.
- C. In instances where one of the conditions above applies, the MS4 Coordinator may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the City that the variance will not result in the following impacts to downstream waterways:
- 1) Deterioration of existing culverts, bridges, dams and other structures;
 - 2) Degradation of biological functions or habitat;
 - 3) Accelerated stream bank or streambed erosion or siltation;
 - 4) Increased threat of flood damage to public health, life, property.
- D. Furthermore, where compliance with minimum requirements for stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the MS4 Coordinator. Mitigation measures may include, but are not limited to, the following:
- 1) The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.
 - 2) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance.
 - 3) Monetary contributions (Fee-in-Lieu) to fund stormwater management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macro-invertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, and monitoring of stormwater management practices).

SECTION 8: Fee in Lieu of Stormwater Management Practices.

- A. Where the MS4 Coordinator waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City.
- B. When an applicant obtains a waiver of the required stormwater management requirements, the monetary contribution required shall be in accordance with a fee schedule (unless the developer and the stormwater authority agree on a greater alternate contribution) established by the City, and based on the cubic feet of storage required for stormwater management of the development in question. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

SECTION 9: Dedication of Land.

In lieu of or in conjunction with a monetary contribution, an applicant may obtain a waiver of the stormwater management requirements by entering into an agreement with the Sanitary District for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

SECTION 10: General Performance Criteria for Stormwater Management

A. Unless judged by the MS4 Coordinator to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites one acre or greater:

- 1) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- 2) All stormwater runoff generated from new development shall not discharge directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the MS4 Coordinator. In no case shall the impact on functional values be any less than allowed by the U.S. Army Corps of Engineers (U.S. ACE) or other agencies regulating wetlands in the State of Indiana.
- 3) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the Reference Manuals of Section 5.
- 4) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- 5) Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan, and shall file a Notice of Intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES). The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.
- 6) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural STPs and pollution prevention practices.
- 7) Prior to design, applicants are required to consult with the MS4 Coordinator to determine if they are subject to additional stormwater design requirements.
- 8) The calculations for determining peak flows as found in the Reference Manuals of Section 5, or other municipal ordinances, shall be used for sizing all stormwater management practices.

SECTION 11: Basic Stormwater Management Design Criteria.

A. Minimum Control Requirements

- 1) All stormwater management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10 year, 100 year) as identified in the Reference Manuals or other municipal ordinances are met, unless the MS4 Coordinator grants the applicant a waiver or the applicant is exempt from such requirements.
- 2) In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the MS4 Coordinator reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

B. Site Design Feasibility.

- 1) Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:
 - a) Topography;
 - b) Maximum Drainage Area;
 - c) Depth to Water Table;
 - d) Soils;
 - e) Slopes;
 - f) Terrain;
 - g) Location in relation to environmentally sensitive features or ultra-urban areas.
- 2) Applicants shall consult the Reference Manuals of Section 5 and other ordinances for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

C. Conveyance Issues. All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

- 1) Maximizing of flow paths from inflow points to outflow points;
- 2) Protection of inlet and outfall structures;
- 3) Elimination of erosive flow velocities;
- 4) Providing of under-drain systems, where applicable.

- D. **Treatment/Geometry Conditions.** All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the Reference Manuals and other ordinances. These specifications will designate the water quantity and quality treatment criteria that apply to an approved stormwater management practice.
- E. **Landscaping Plan Requirements.** All stormwater management practices must have a landscaping plan detailing both the vegetation and how and who will manage and maintain this vegetation.
- F. **Selection of Plant Materials.** Planting materials used by any person in conformance with provisions of this ordinance shall be of a species native to Northwest Indiana and be expected to thrive in the climate of Northwest Indiana. The MS4 Coordinator shall review and approve the desired planting material species to determine conformance with native species compliance.
- G. **Maintenance Agreements.** All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.
- H. **Non-Structural Stormwater Practices.** The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the Reference Manuals of Section 5 and/or by the MS4 Coordinator. Applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

SECTION 12: Requirements for Stormwater Management Plan Approval.

A. Stormwater Management Plan Required for all Developments.

- 1) No application for development will be approved unless it includes a Stormwater Management Plan detailing how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by an individual approved by the City and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices.
- 2) The Stormwater Management Plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in the final approved Stormwater Management Plan. This final plan must be signed by a licensed Professional Engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Submittal Checklist provided by the MS4 Coordinator. No land disturbing activities shall commence until a satisfactory final Stormwater Management Plan, or a waiver thereof, shall have undergone a review and been approved by the MS4 Coordinator after determining that the plan or waiver is consistent with the requirements of this ordinance.

B. Stormwater Management Plan Requirements.

A Stormwater Management Plan shall be required will all permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the stormwater effects of the project, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project. The intent of this planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the Stormwater Management Plan:

- 1) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- 2) Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications of the Reference Manuals.
- 3) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- 4) A written or graphic inventory of any invasive species at the site and surrounding area, including proposed measures for the mitigation of invasive species on the site.
- 5) A written description of the required maintenance burden for any proposed stormwater management facility.
- 6) The MS4 Coordinator may also require a Stormwater Management Plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- 7) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the Stormwater Management Plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this ordinance to the maximum extent practicable.
- 8) **Contact Information.** The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

- 9) Topographic Base Map. A 1" = 200' topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
 - 10) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the Reference Manuals or other ordinances, and (ix) documentation of sources for all computation methods and field test results.
 - 11) Soils Information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil test pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
 - 12) Maintenance and Repair Plan. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
 - 13) Landscaping Plan. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered Landscape Architect or by the Soil Conservation District.
 - 14) Maintenance Easements. The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with the transfer of title to subsequent property owners.
 - 15) Maintenance Agreement. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this ordinance.
 - 16) Erosion and Sediment Control Plans for Construction of Stormwater Management Measures. The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management practices.
 - 17) Other Permits. The applicant shall assure that all other applicable permits have been acquired for the site prior to approval of the final stormwater management plan.
- C. Stormwater Management Concept Plan. If deemed necessary by the MS4 Coordinator, a Stormwater Management Concept Plan can be required to be submitted by the developer, prior to the preparation of a Stormwater Management Plan, to document for the MS4 Coordinator the overall impact of stormwater effects of the proposed development and the intent of the type(s) of stormwater management measures necessary for the proposed project, on a conceptual basis.
- D. Performance Bond/Security
- 1) The City requires the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus 25%. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.
 - 2) The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The MS4 Coordinator will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security based on the completion of various development stages can be done pursuant to a partial release determination made by the MS4 Coordinator.

SECTION 13: Construction Inspection.

A. Notice of Construction Commencement.

- 1) The applicant must notify the MS4 Coordinator in advance before the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the staff of the City or certified by a professional engineer or their designee who has been approved by the MS4 Coordinator. All inspections shall be documented and written reports prepared that contain the following information:
 - a) The date and location of the inspection;
 - b) Whether construction is in compliance with the approved stormwater management plan;
 - c) Variations from the approved construction specifications;
 - d) Any violations that exist.
- 2) If any violations are found, the property owners shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the MS4 Coordinator.

- B. **As Built Plans.** All applicants are required to submit actual “as-built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a Professional Engineer. A final inspection by the MS4 Coordinator is required before the release of any performance securities can occur.
- C. **Landscaping and Stabilization Requirements**
- 1) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten (10) days from the substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:
 - a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
 - b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
 - c) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.
 - 2) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

SECTION 14: Maintenance and Repair of Stormwater Facilities.

- A. **Maintenance Easement.** Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Sanitary District of Michigan City or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded in the land records.
- B. **Maintenance of Covenants.**
- 1) Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the Sanitary District of Michigan City and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.
 - 2) The Sanitary District, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
- C. **Requirements for Maintenance Covenants.** All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs to ensure compliance with the requirements of this ordinance and accomplishment of its purposes. These needs may include: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal; and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the MS4 Coordinator, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.
- D. **Inspection of Stormwater Facilities.** Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspection with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.
- E. **Right-of-Entry for Inspection.** When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the Sanitary District, or its designee, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.
- F. **Records of Installation and Maintenance Activities.** Parties responsible for the operation and maintenance of a stormwater management facility shall keep records of the installation of all maintenance and repairs, and shall retain the records for at least three (3) years. These records shall be made available to the MS4 Coordinator during inspection of the facility and at other reasonable times upon request.
- G. **Failure to Maintain Practices.** If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the Sanitary District, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Sanitary District, or its designee, shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have three (3) days to effect maintenance and repair of the facility in an approved manner. After proper notice, the Sanitary District may assess the owner(s) of the facility for the cost of the repair work and any penalties; and the cost of the work shall be a lien

on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the Sanitary District.

SECTION 15: Enforcement and Penalties.

- A. Violations. Any development activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.
- B. When the MS4 Coordinator determines that an activity is not being carried out in accordance with the requirements of this ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
- 1) The name and address of the owner or applicant;
 - 2) The address when available or a description of the building, structure or land upon which the violation is occurring;
 - 3) A statement specifying the nature of the violation;
 - 4) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - 5) A statement that the determination of violation may be appealed by filing a written notice of appeal within fifteen (15) days of service of notice of violation.
- C. Stop Work Orders. Persons receiving a notice of violation will be required to halt all construction activities. This "stop work order" will be in effect until the MS4 Coordinator confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil and/or monetary penalties in accordance with the enforcement measures authorized in this ordinance.
- D. Civil Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be punished by a fine of not more than \$2,500.00 for each violation. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- E. Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Sanitary District of Michigan City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- F. Holds on Occupation Permits. Occupation permits will not be granted until a correction to all stormwater violations have been made and accepted by the MS4 Coordinator.
- G. Appeal of Decisions. The interpretation or implementation of the Rule 5 or Rule 13 program requirements by the MS4 Coordinator may be appealed to the MS4 Advisory Committee, in writing and within five (5) days of the interpretation or implementation decision. The appeal will be decided by the MS4 Advisory Committee within ten (10) days. The appeal process does not stay a stop work order issued under Section 15.C.

SECTION 16: Administration.

- A. Generally. The Mayor, through the Sanitary District of Michigan City, is hereby authorized to implement and monitor all aspects of this ordinance.
- B. Project Specific Administration. The MS4 Coordinator shall be responsible for implementation and monitoring compliance with the provisions of this ordinance.

SECTION 17: Severability.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

INTRODUCED BY: /s/ Evelyn Baker

CO-SPONSOR: /s/ Charles Lungren

Councilman Lungren moved to adopt the Ordinance and stated there would be an amendment. Al Walus, Manager, Sanitary District addressed this matter. It was seconded by Councilwoman Baker.

Al Walus, Manager of Sanitary District advised the Council there was not an amendment for this Ordinance.

Councilman Lungren moved to adopt the Ordinance, seconded by President Milsap. The motion carried as follows and the amendment was adopted: **AYES: COUNCIL MEMBERS Milsap, Przybylinski, Baker, Boy, Doyle, Jankowski, Lungren, Martin, Meer (9). NAYS: None (0).**

The Clerk read on third reading by title only,

ORDINANCE NO. 4000

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, REGULATING CONSTRUCTION ACTIVITY EROSION AND SEDIMENT CONTROL

WHEREAS, the purpose of this ordinance is to establish requirements within the City of Michigan City for stormwater discharges from construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected. The ordinance will promote the public welfare by guiding, regulating and controlling the design, construction, inspection, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth in the City of Michigan City; and,

WHEREAS, during the construction process, soil is vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair/maintenance of sewers and ditches and the dredging of lakes and streams. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat; and,

WHEREAS, the Federal Clean Water Act, 33 U.S.C. 1251 *et seq.* and Indiana State Regulation 327 IAC 15-13, Stormwater Run-off Associated with Municipal Separate Storm Sewer System Conveyances (Rule 13), designates the City of Michigan City, Indiana as a Municipal Separate Storm Sewer System (MS4). As a designated MS4, the City of Michigan City is required to implement, manage and enforce a program to reduce or eliminate pollutants in stormwater runoff from construction activities that result in land disturbance equal to or greater than one acre and control of stormwater discharges from construction activity disturbing less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more; and,

WHEREAS, Indiana Administrative Code 327 IAC 15-5, Stormwater Run-off Associated with Construction Activity (Rule 5), establishes specific minimum requirements for control of stormwater run-off associated with construction activity. The requirements of Rule 5 shall be met except as specifically noted herein.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, Indiana, that:

SECTION 1: Short Title.

This ordinance shall be known as the "MS4 Construction Activity Erosion and Sediment Control Program."

SECTION 2: Purpose.

The purpose of this ordinance is to meet the requirements of IDEM Rule 327 IAC 15-13 (Rule 13).

SECTION 3: Definitions.

The definitions that apply throughout this Ordinance are as contained in Section 4 of 327 IAC 15-5 and as follows:

NN. "**City**" means the Civil City of Michigan City, Indiana.

OO. "**MS4 Advisory Committee**" means those appointed representatives of the municipal and county entities who administer the MS4 Program under the permit issued by IDEM.

PP. "**MS4 Coordinator**" means a designated representative of the City responsible for assisting in the implementation and management of the Stormwater Quality Management Program for the City.

QQ. "**Rule 5**" and "**Rule 13**" mean 327 IAC 15-5 and 327 IAC 15-13, respectively. The Indiana Department of Environmental Management (IDEM) has the authority to administer the Erosion Control Program under Rule 5. When IDEM approves the transfer of the Erosion Control Program to MS4 entities, such authority will be by Rule 13 in the MS4 areas only. Rule 5 will continue to apply to non-MS4 areas of the state. The issuance of an authorization letter by IDEM will determine which rule will have precedence or apply.

SECTION 4: Applicability of General Permit Rules.

The applicability of the General Permit Rules is as defined in 327 IAC 15-5-2 and 15-5-3.

SECTION 5: Notice of Intent Letter.

The Notice of Intent Letter (NOI) submittal requirements and construction plan submittal requirements shall be as described in Sections 5 and 6 of 327 IAC 15-5-5. The NOI shall be submitted to the MS4 Coordinator, the Indiana Department of Environmental Management, and any other entity as required by 327 IAC 15-5.

SECTION 6: Construction Plan Requirements.

The Erosion and Sediment Control Plan (ESCP) requirements shall be as described in Section 6.5 of 327 IAC 15-5.

SECTION 7: Stormwater Quality Control Requirements.

Stormwater quality control measures included in the plan must achieve the minimum project site requirements specified in Sections 7 and 7.5 of 327 IAC 15-5.

SECTION 8: Site Development Permit.

- A. No construction project site owner (Permittee) shall be granted a Site Development Permit for a project site where the proposed land disturbance is one (1) acre or more without the approval of the ESCP by the MS4 Coordinator.
- B. The ESCP shall be submitted by the construction project site owner in triplicate to the MS4 Coordinator.
- C. The MS4 Coordinator shall provide a copy of the ESCP to the La Porte County Soil and Water Conservation District (SWCD) for their

comments and recommendations. All comments received from the local SWCD shall be made available to the applicant during the review and approval process.

- D. Each ESCP submittal shall include the name, address and phone number of the Owner or Developer of the site and any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm. It shall also include a statement by the Owner or Developer of the site that any land clearing, construction, or development involving the movement of earth by any party on the project site shall be in accordance with the approved ESCP.
- E. The Site Development Permit is granted by the MS4 Coordinator for a period of five (5) years. Other provisions for duration of coverage shall be as described in Section 12 of 327 IAC 15-5.

SECTION 9: Site Development Permit Fee.

All ESCP's shall be accompanied by a \$100 filing fee.

SECTION 10: Inspection.

- A. The MS4 Coordinator shall make inspections as required and either shall approve that portion of the work completed or shall notify the Permittee that the work fails to comply with the approved ESCP.
- B. To initiate inspections, the Permittee shall notify the MS4 Coordinator in writing, at least two working days before the following: start of construction, completion of site clearing, close of construction season, and commencement of work when the site has been dormant for at least fifteen calendar days and completion of final landscaping.
- C. The Permittee shall make regular inspections of all control measures in accordance with 327 IAC 15-5-7. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional correctional measures.

SECTION 11: Project Termination.

The procedures for termination of construction activities shall be as described in Section 8 of 327 IAC 15-5.

SECTION 12: Enforcement.

- A. The City shall have the authority to enforce this ordinance. All persons engaging in construction activities on a project site must comply with the approved ESCP for the project site and with the requirements, provisions and regulations of this ordinance. Any person causing or contributing to a violation of any requirement, provision, or regulation of this ordinance may be subject to enforcement and penalty under the terms of this ordinance. If the violation is of such a nature to materially adversely affect the public health, existing water uses and aquatic biota of the City, the City may suspend or revoke the Site Development Permit and place an immediate "Stop Work Order" at the site.
- B. Each action causing a violation will constitute a separate and single violation. Each day that a violation exists constitutes a separate violation, and is subject to penalty or prosecution as a separate violation.
- C. Any person performing land disturbing activities prior to submitting an ESCP for approval by the City and properly notifying IDEM shall be subject to enforcement and penalty as described in Section 10 of 327 IAC 15-5.

SECTION 13: Penalty Procedures.

- A. The City or will employ the following procedures with regard to assigning penalties to enforce the requirements, provisions and regulations of this ordinance:
 - 1) First Violation – means the initial determination of a violation or group of violations at a project site. Upon ascertaining and documenting the occurrence of a first violation at a project site, the City will make a corrective recommendation to the owner/developer responsible for correcting the violation, together with a notice that the correction must be accomplished within ten (10) working days after the issuance of the notice to prevent the citation of a second violation with regard to the same condition or conditions that caused the first violation.
 - 2) Second Violation – means the determination that after ten (10) working days past the notification of a first violation, the condition or conditions constituting the first violation remain uncorrected or otherwise not compliant with the requirements, provisions or regulations of this ordinance. Upon ascertaining and documenting the occurrence of a second violation at a project site, the City will again issue a non-compliance citation to the owner/developer along with a notice that the correction must be accomplished with five (5) calendar days from the date of the citation to prevent the citation of a third violation regarding the same condition. The civil penalty for the citation of a second violation will be no less than One Hundred Dollars (\$100.00) and no more than Two Hundred and Fifty Dollars (\$250.00). If the penalty is not paid within thirty (30) days, the citation may be enforced in Court by any remedy allowed by Law and an action may be maintained to recover the costs of corrective measures employed by the City and the reasonable costs of legal services, if the owner/developer does not make a good faith effort to correct the violation, in addition to the fine or penalty referred to above.
 - 3) Third Violation – means the determination that after five (5) working days past the notification of a second violation, the condition or conditions constituting the second violation remain uncorrected or otherwise noncompliant with the requirements, provisions, or regulations of this ordinance. Upon ascertaining and documenting the occurrence of a third violation at a project site, the City will issue another non-compliance citation to the owner/developer together with a notice that the project site is subject to an immediate "Stop Work" order. The civil penalty for a third violation will be no less than Five Hundred Dollars (\$500.00) and no more than Seven Hundred Fifty Dollars (\$750.00). If the penalty is not paid within thirty (30) days, the citation may be enforced in Court by any remedy allowed by Law and an action may be maintained to recover the costs of corrective measures employed by the City and the reasonable costs of legal services, if the owner/developer does not make a good faith effort to correct the violation, in addition to the fine or penalty referred to above.
- B. Stop Work orders will not be rescinded until all recommended corrective measures have been completed and the City has been paid for all costs incurred, as applicable.

- C. The City reserves the right to accelerate the schedule assigned in this section for correcting a violation if required to protect life or property from an eminent and severe threat of loss or damage.
- D. The City may perform, or cause to be performed, such work as is necessary to accomplish corrective measures at a project site by their own forces or by a contractor hired to perform the work.
- E. Any project site owner, individual lot operator, contractor, subcontractor, property owner, or other person or persons responsible for construction activities at a project site who violate the terms, requirements, provisions, or regulations of this ordinance are liable for the costs of removal of sediment and other stormwater pollutants deposited in any right-of-way, drain, storm sewer, drainage easement, or City maintained or controlled property to a condition equal di the condition prior to a violation. Such costs may be pursued in Court and/or filed as a lien against the property as allowed by State law.

SECTION 14: Administration.

- C. Generally. The Mayor, through the Sanitary District of Michigan City, is hereby authorized to implement and monitor all aspects of this ordinance.
- D. Project Specific Administration. The MS4 Coordinator shall be responsible for implementation and monitoring compliance with the provisions of this ordinance.

SECTION 15: Appeal of Decisions.

The interpretation or implementation of the Rule 5 or Rule 13 program requirements by the MS4 Coordinator may be appealed to the MS4 Advisory Committee, in writing and within five (5) days of the interpretation or implementation decision. The appeal will be decided by the MS4 Advisory Committee within ten (10) days. The appeal process does not stay a stop work order issued under Sections 12 and 13.

SECTION 16: Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance 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 ordinance.

INTRODUCED BY: /s/ Evelyn Baker

CO-SPONSOR: /s/ Charles Lungren

Councilman Lungren moved to adopt the Ordinance, stated there would be an amendment. It was seconded by Councilwoman Baker.

Councilman Lungren asked Al Walus, Manager of Sanitary District to explain the amendment to this Ordinance.

Al Walus, Manager of Sanitary District explained the recommended amendment, then read the changes as follows: On page 12 Section 11, "Basic Stormwater Management Design Criteria", **INSERT** a new paragraph F, "Selection of Plant Materials" as follows

INSERT:

- F. Selection of Plant Materials. Planting materials used by any person in conformance with provisions of this ordinance shall be of a species native to Northwest Indiana and expected to thrive in the climate of Northwest Indiana. The MS4 Coordinator shall review and approve the desired planting material species to determine conformance with native species compliance.**

With the insertion of NEW paragraph F, rename all subsequent paragraphs as follows:

- Existing paragraph F, "Maintenance Agreements" to be renamed to paragraph G, "Maintenance Agreements."
- Existing paragraph G, "None-Structural Stormwater Practices" to be renamed to paragraph H, "Non-Structural Stormwater Practices."

Councilman Lungren moved to adopt the amendment, seconded by Councilman Meer. The motion carried as follows and the Amendment was adopted: **AYES: COUNCIL MEMBER Przybylinski, Baker, Boy, Doyle, Jankowski, Lungren, Martin, Meer, and Milsap (9). NAYS: None (0).**

Councilman Lungren moved to adopt the Ordinance, that a second amendment be explained by Al Walus, Manager of Sanitary District. Councilwoman Boy moved to adopt the amendment. It was seconded by Councilwoman Baker.

Al Walus, Manager of Sanitary District explained the recommended Amendment, then read the changes as follows; On Page 14, Section 12, "Requirements for Stormwater Management Plan Approval", **INSERT** a new paragraph 4 as follows:

INSERT:

- 4. A written or graphic inventory of any invasive species at the site and surrounding area, including proposed measures for the mitigation of invasive species on the site.**

With the insertion of NEW paragraph 4, rename all subsequent paragraphs as follows:

- **Existing paragraph 4 through 16 shall be renumbered as 5 through 17.**

The motion carried and the amendment was adopted by the following vote: **AYES: COUNCIL MEMBERS Baker, Boy, Doyle, Jankowski, Lungren, Martin, Meer, Milsap, and Przybylinski (9). NAYS: None (0).**

Councilwoman Baker thanked Mr. Walus and Mr. Hoffman for their cooperation and hard work with the amendments and Ordinances.

Mr. Walus responded to Councilwoman Boy that the Planning Department has a document that is given to each contractor and developer.

Mr. Walus answered questions from Councilman Przybylinski regarding Section "M" regarding "Fee in Lieu", Section 8: Fee in Lieu of Stormwater Management Practices and detention areas that are already in existence.

Councilman Lungren moved to adopt the Ordinance, as amended, seconded by Councilwoman Martin and Baker. The motion carried and the Ordinance, as amended, adopted by the following vote: **AYES: COUNCIL MEMBERS Boy, Doyle, Jankowski, Lungren, Martin, Meer, Milsap, Przybylinski, and Baker (9). NAYS: None (0).**

The Clerk read on third reading by title only,

ORDINANCE NO. 3997

AN ORDINANCE TO AMEND ORDINANCE 2560 AND ALL SUBSEQUENTLY ENACTED AMENDING ORDINANCES THERETO, ALL COLLECTIVELY KNOWN AS THE FIRE MERIT ORDINANCE OF THE MUNICIPAL CODE OF THE CITY OF MICHIGAN CITY, INDIANA, ALSO KNOWN AS THE MICHIGAN CITY MUNICIPAL CODE SECTION 54-173 (1) et. seq.

WHEREAS, the Fire Merit Ordinance with the passage of time needs clarification and modification.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of Michigan City, Indiana, that the following modifications, additions and alterations to the Fire Merit Ordinance shall be as follows:

- 1. The City of Michigan City Municipal Code Section 54-173(3)(b) entitled "Rating Standards" shall be modified and amended by replacing "Appendix 1", entitled "Michigan City Fire Fighter's Bi-Annual Performance Evaluation" with a new Performance Evaluation form by the same name.**

Specifically, the paragraph entitled "**Rating Scale**" shall be amended by adding Thereto a section entitled "Non-supervisory scale", such that the paragraph entitled "**Rating Scale**" shall now appear as follows:

"Non supervisory rating scale"

**611 - 680 *Outstanding
544 - 610 Very Good**

"Supervisory rating scale"

**720 - 800 *Outstanding
640 - 719 Very Good**

476 – 543	Good	560 – 639	Good
408 – 475	Needs Improvements	480 – 559	Needs Improvements
0 – 407	*Unsatisfactory	0 – 479	*Unsatisfactory

See amended Michigan City Firefighters Bi-annual Performance Evaluation attached hereto.

INTRODUCED BY: Councilperson Patricia Boy

Councilwoman Boy moved to adopt the Ordinance, seconded by Councilman Doyle.

Councilwoman Martin and Boy discussed the time frame for adopting this Ordinance.

The motion carried and the Ordinance was adopted by the following vote: **AYES: COUNCIL MEMBERS** Doyle, Jankowski, Lungren, Martin, Meer, Milsap, Przybylinski, Baker, and Boy (9). **NAYS: None (0).**

UNFINISHED BUSINESS

There was no Unfinished Business.

NEW BUSINESS

Councilman Meer moved to reappoint Albertine Allen, Willie Milsap, Rev. Charles Dowdell and Rebecca Williams to the Social Status of African-American Males Commission. Councilwoman Martin seconded the motion, which carried as follows: **AYES: COUNCIL MEMBERS Jankowski, Lungren, Martin, Meer, Milsap, Przybylinski, Baker, Boy, and Doyle (9).** **NAYS: None (0).**

Councilman Przybylinski moved to reappoint Robert Worek to the Community Enrichment Corporation Commission. Councilwoman Martin seconded the motion, which carried as follows: **AYES: COUNCIL MEMBERS Lungren, Martin, Meer, Milsap, Przybylinski, Baker, Boy, Doyle, and Jankowski (9).** **NAYS: None**

COMMENTS FROM THE COUNCIL

.Councilman Lungren commented on the decisions made by President Milsap regarding the committee assignments.

There was a discussion between Councilman Lungren and John Schaefer, City Controller regarding a study that was done, that reviewed members of each City Board and Commissions' duties and appointments.

Councilman Przybylinski thanked the Council for their support to reappoint Rober Worek to the Community Enrichment Corporation Commission.

Councilman Przybylinski reported on the Solid Waste District's Public Hearing on rate increases.

COMMENTS FROM THE PUBLIC

Fire Merit Commission President, John Skierkowski commented on language changes in the Ordinance to amend Ordinance 2560 regarding the Michigan City Municipal Code, Section 54-173 (1) et. seq.

ADJOURNMENT

On motion by Councilman Doyle, supported by the majority of the Council, and there being no further business to transact, President Milsap declared the meeting **ADJOURNED** (approximately 8:50 p.m.)

Thomas F. Fedder, City Clerk

