

CITY OF NEW CASTLE
DRAFT ORDINANCE CONTROLLING CONSTRUCTION SITE SOIL EROSION, SEDIMENT, AND
OTHER WASTES AND STORM WATER RUNOFF

Brief Synopsis
ORD. # 3436

Title 40 Codified Federal Register (C.F.R.) Parts 9, 122, 123, and 124, referred to as NPDES (National Pollutant Discharge Elimination System) Storm Water Phase II, require designated communities, including the City of new Castle, Indiana, to develop a Storm Water Management Program to address among other components, erosion, sedimentation, and the quality of storm water runoff during and after soil disturbing activities; and, Title 327, Article 15, Rule 13 of the Indiana Administrative Code (327 IAC 15-13) grants designated municipalities the legal authority to adopt rules to abate soil erosion and water pollution by soil sediments. Rule 13 requires MS4 communities to develop ordinances and procedures to administer the requirements of the Rule. The intent of this regulation is to establish requirements for storm water discharges from construction activities of one (1) or more acre and consistent technically feasible and operationally practical standards so that the public health, existing water uses, and aquatic biota are protected.

The requirements under this regulation apply to all persons who: 1) Do not obtain an individual NPDES permit under 327 IAC 15-2-6; 2) Meet the general permit rule applicability requirements under 327 IAC 15-2-3; and 3) Are involved in construction activity, except operations that result in the land disturbance of less than one (1) acre of total land area as determined under Multitlot Project Sites and are not part of a larger common plan of development or sale. The requirements under this regulation do not apply to persons who are involved in agricultural land disturbing activities; or forest harvesting activities.

The requirements under this regulation do not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures: 1) Landfills that have been issued a certification of closure under 329 IAC 10; 2) Coal mining activities permitted under IC 14-34; and 3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Department under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

Responsibilities of the Project Site Owner will be to: 1) Complete a sufficient Notice of Intent (NOI) letter; 2) Ensure that a sufficient comprehensive storm water management plan is completed and submitted in accordance with this rule. Compliance with all applicable portions of 327 IAC 15-5 is also required; 3) Ensure compliance with this rule during the construction activity and implementation of the comprehensive storm water management plan; 4) Notify the Department (IDEM) and City with a sufficient Notice of Termination (NOT) letter; and 5) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this rule and the approved comprehensive storm water management plan.

In implementing these regulations the City's MS4 Operator, Utility Impact Board or other City officials may consult with a consulting engineer, the local county SWCD, State and federal agencies, other designated review authority of the City and other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant or his or her designated representative.

A NOI with the required information as indicated in the Ordinance must be submitted to the City and also to the Indiana Department of Environmental Management (IDEM) by the project site Owner. Submittal must be made forty-eight (48) hours prior to initiation of any land disturbing activity.

The Project Site Owner shall submit a complete and comprehensive Storm Water Management Plan to the City as required by the Ordinance for review. If complete, the City will issue comments or approval within 30 days of receipt.

No person shall violate, or cause, or knowingly permit to be violated, any of the provisions of these regulations, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations. Whoever violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (\$1,000.00) or imprisoned for no more than one hundred eighty (180) days, or both, for each offense.

The City may require a Security Bond, Escrow Account, Certified Check or Cash to guarantee that the planned temporary and permanent soil erosion, sediment, and other wastes controls and water quality practices will be constructed, maintained and removed in a timely manner, as determined by the City. The City will utilize Owner / Developer submittal information in part to determine the need for bonds, escrow account deposit or other acceptable guarantees for each specific project. Potential impacts to the environment, receiving streams, adjacent property owners, right-of-ways as well as drainage basin area, erosion improvement complexity and cost will be considered in determining any guarantee requirements.

The Ordinance also stipulates other requirements pertaining to maintenance, minimum standards, sediment barriers, temporary and permanent soil stabilization, stream channel and floodplain erosion design criteria, compliance with other rules and regulations, etc.