TOWN OF PLAINFIELD

ORDINANCE NO. 36-2005

AN ORDINANCE CONCERNING STORMWATER EROSION AND SEDIMENT CONTROL

SECTION I. INTRODUCTION / PURPOSE

During the construction process, soil is highly 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 of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the environment in the Town of Plainfield, Indiana. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the Town of Plainfield, Indiana.

SECTION II. DEFINITIONS

1. *BMP – Best Management Practice*
   An activity or structure that helps improve the quality of storm water runoff.
2. *Clearing*
   Any activity that removes the vegetative surface cover.
3. *Construction Activity*
   Land disturbing activities associated with the construction of infrastructure or structures. The term "construction activity" does not include routine ditch or road maintenance or minor landscaping projects.
4. *Construction Project Site*
   The physical location(s) or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.
5. *Construction Site Access*
   A stabilized stone surface at all points of construction related egress from a project site planned and installed in accordance with specification **from an approved reference manual**, and maintained throughout the period of land disturbing activities for the purpose of capturing and detaining sediment

carried by tires, tracks, or other surface contact components of vehicles, earthmoving equipment, or material and personnel transport conveyances.

6. *Drainage Way*

   Any channel that conveys surface storm water runoff.

7. *Department*

   Reference to the Indiana Department of Environmental Management (IDEM)

8. *Developer*

   A project site owner or person financially responsible for construction activity; or an owner of property who sells, leases, or offers for sale or lease, any lot(s) in a subdivision or larger common plan of development or sale.

9. *Director*

   The chief executive officer of IDEM.

10. *Erosion Control*

    A measure that prevents erosion.

11. *Erosion and Sediment Control Permit*

    A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

12. *Erosion and Sediment Control Plan*

    An ordered collection of drawings, narratives, data and documents, prepared by or under the direction of a licensed professional engineer or Certified Professional in Storm Water Quality (CPSWQ), assembled for review, approval, authorization, and establishment of guidelines and schedules for the implementation, management, and completion of construction activities, and used to control sediment and erosion on a development site during and after construction at a project site regulated by this ordinance. A storm water pollution prevention plan (SWP3) is a part of the Erosion and Sediment Control Plan.

13. *Erosion and Sediment Control System*

    Appropriate control measures combined to prevent or minimize the wearing away of soil, sediment, and rock fragments by water, wind, or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site.

14. *Final Stabilization*

    The establishment of permanent vegetative cover or the application of a permanent, non-erosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current plan.

15. *Grading*

    Excavation or fill of material, including the resulting conditions thereof.

16. *Individual Building Lot*

    A single parcel of land in a multi-parcel development

17. *Land Disturbing Activity*

Any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

18. *Measurable Storm Event*

    A precipitation event that results in a total measured accumulation of precipitation equal to or greater than one-half (1/2) inch of rainfall.

19. *MS4 - Municipal Separate Storm Sewer System*

    A system of storm water conveyances either owned or operated by a governmental agency that IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state.

20. *MS4 Area*

    Within this ordinance, the corporate limits of the Town of Plainfield under an NPDES Permit regulated by 327 IAC 15-13.

21. *MS4 Operator*

    The person locally responsible for development, implementation, or enforcement of the Storm Water Quality Management Plan (SWQMP) for the Town of Plainfield as regulated under 327 IAC 15-13, or a representative thereof.

22. *Notice of Permit Approval (NPA)*

    A notification from the MS4 Operator to the project site owner that the Erosion and Sediment Control Permit Application for a project site has been reviewed and approved by the MS4 Operator.

23. *NPDES*

    The National Pollutant Discharge Elimination System, a program administered by IDEM to reduce or eliminate the pollutant loadings into public waters.

24. *Peak Discharge*

    The maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period or 'design storm'.

25. *Perimeter Control*

    A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

26. *Permanent Stabilization*

    The establishment, at a uniform minimum of seventy percent (70%) across the disturbed areas, of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding, or other movement.

27. *Phasing of Construction*

    Sequential development of smaller portions of a large project site, stabilizing each portion before initiating land disturbing activities on the next portion, to minimize exposure of land to erosion.

28. *Runoff*

    An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.

29. *Sediment*

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

30. *Sedimentation*

    The settling and accumulation of unconsolidated sediment carried by storm water runoff.

31. *Sediment Control*

    Measures that prevent eroded sediment from leaving the site.

32. *Site*

    A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

33. *Start of Construction*

    The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

34. *Storm Water Pollution Prevention Plan (SWP3)*

    A plan developed to minimize the impact of storm water pollutants resulting from construction and post-construction activities.

35. *Storm Water Quality Measure*

    A practice or combination of practices to control or minimize pollutants associated with storm water runoff.

36. *Temporary Stabilization*

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

37. *Tracking*

    The movement and re-depositing of dirt, mud, aggregate, sediment, or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks, or other surface contact components of cars, trucks, heavy equipment, or material and personnel transport conveyances.

38. *Watercourse*

    Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated within the Town of Plainfield.

39. *Waterway*

    A channel that directs surface runoff to a watercourse or to the public storm drainage system.

SECTION III. PERMITS

A. No applicant shall be granted Construction Plan Approval or Building Permit Approval, or in the case where a Building Permit is not required, Improvement Location Permit Approval, without the review and approval of an Erosion and Sediment Control Plan and issuance of an Erosion and Sediment Control Permit by the Plainfield MS4 Operator for land-disturbing activity uncovering one (1) or more acres of land. *(Individual Building Lots less than one (1) acre – see Section B below.)*

B. The developer of an Individual Building Lot containing less than one (1) acre, but which is a part of a multi-lot construction project permitted under III A above, shall be required to complete an Erosion and Sediment Control Agreement prior to receipt of a Building Permit. This declaration assigns responsibility for conformance to the Construction Plan as required in 327 IAC 15-5-7.5 to the individual building lot developer.

C. No Erosion and Sediment Control Permit is required for the following activities:

   a. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

   b. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

D. The Erosion and Sediment Control Permit Application, with accompanying documentation as required (including the Erosion and Sediment Control Plan), shall be submitted with the number of copies identified on the Town provided application form. The Erosion and Sediment Control Plan submitted to the MS4 Operator shall include all documents and information required within 327 IAC 15-5.

E. Each Erosion and Sediment Control Permit Application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.

F. In order to defray the Town's administrative costs associated with the review of the Erosion and Sediment Control Permit Application, the Applicant shall, at the time of filing a permit application, pay such Erosion and Sediment Control Permit Application fees as required by "An Ordinance Establishing Fees and Permits for the Town of Plainfield" including any amendments to or replacements of such Ordinance.

G. Any application for Primary Plat approval or Secondary Plat approval which has been filed with the Director of the Department of Planning and Zoning and which application is full and complete under the provisions of the Plainfield Subdivision Regulations (Plainfield Ordinance No. 9-89, as amended) prior to the effective date of this Ordinance shall not require submittal of an Erosion and Sediment Control Plan and Permit Application to the Plainfield MS4 Operator, but shall provide any and all erosion control measures required as part the Development's review and approval process.

SECTION IV. REVIEW AND APPROVAL

A. The MS4 Operator will review each Erosion and Sediment Control Permit Application to determine its conformance with the provisions of this ordinance. Within twenty-eight (28) days after receiving an application, the MS4 Operator shall approve, approve with conditions, or disapprove the application. Possible actions are further defined as:

   a. *Approve:* the permit application is found to be completely consistent with the requirement within this ordinance, therefore, the MS4 Operator shall issue a Notice of Permit Approval (NPA),

   b. *Approve with conditions:* the permit application is generally consistent with the requirements within this ordinance, but specific minor modifications are required to meet all of the applicable requirements. Therefore, the MS4 Operator shall issue the permit subject to these written conditions along with a Conditional Notice of Permit Approval (CNPA); or

   c. *Disapprove:* the permit application does not meet the requirements of this ordinance and requires modifications that would result in significant changes to the Erosion and Sediment Control Plan. Therefore, the MS4 Operator shall disapprove the application indicating the reason(s) and procedure for submitting a revised application and/or submission.

B. The Developer must include the NPA or CNPA as verification of Erosion and Sediment Control Permit approval with the Notice of Intent (NOI) sent to the Director of IDEM in accordance with 327 IAC 15-5-6(a) at least forty-eight (48) hours prior to land-disturbing activities.

C. The initiation of construction activity following notification by the MS4 Operator that the Erosion and Sediment Control Permit Application does not meet the requirements of this ordinance is a violation and subject to enforcement action.

D. If the project site owner does not receive notification within twenty-eight (28) days after the Erosion and Sediment Control Permit Application is received by the MS4 Operator stating that the Erosion and Sediment Control Permit Application is disapproved, the project site owner may submit the NOI letter information to IDEM in accordance with 327 IAC 15-5-6(a).

E. If notification of a disapproved Erosion and Sediment Control Permit Application is received after the review period outlined in Section III. D. and following commencement of construction activities, the Erosion and Sediment Control Plan must be modified to meet the requirements of the ordinance and resubmitted within fourteen (14) days of receipt of the notification of the disapproved Erosion and Sediment Control Permit Application.

F. In order to defray the Town's administrative costs associated with the inspection and oversight of the Erosion and Sediment Control Permit, the Applicant shall, prior to receiving a Notice of Permit Approval or Conditional Notice of Permit Approval, pay such Erosion and Sediment Control Permit Approval fees as required by "An Ordinance Establishing Fees and Permits for the Town of Plainfield" including any amendments to or replacements of such Ordinance.

G. Per Section 2.3 of the Town of Plainfield Subdivision Control Ordinance (Plainfield Town Council Ordinance 22-97), the applicant will be required to file with the Town of Plainfield a faithful performance or maintenance bond, letter of credit, or other improvement security in an amount deemed sufficient to cover all costs of improvements, including but not limited to, erosion control measures, grading, landscaping, and maintenance of improvements, for such period as specified by the Town of Plainfield and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site. The Applicant shall file the required performance or maintenance bond, letter of credit, or other improvement security with the Town of Plainfield prior to receiving a Notice of Permit Approval or Conditional Notice of Permit Approval.

SECTION V. INSPECTION

A. The permittee shall maintain a copy of the approved Erosion and Sediment Control Plan and Erosion and Sediment Control Permit on site.

B. Per the requirements of 327 IAC 15-5-7 and as part of the approved Erosion and Sediment Control Permit, the permittee shall implement a self-monitoring program that, at a minimum, shall include the following:

a. A written self-evaluation performed by a trained individual of the project site by the end of the next business day following each measurable storm event, and at a minimum of one (1) time per week.

b. The self-evaluation must address the maintenance of existing storm water quality measures to ensure that they are functioning properly, and identify additional measures necessary to remain in compliance with all applicable statutes and rules.

c. Written self-evaluation reports must include the following:

   i. The name of the individual performing the evaluation.
   ii. The date of the evaluation.
   iii. Problems identified at the project site.
   iv. Details of corrective actions recommended and completed.

d. All self-evaluation reports for the project site must be made available to the MS4 Operator within forty-eight (48) hours of a request.

C. Every active site having an Erosion and Sediment Control Permit will be inspected by the MS4 Operator for compliance with the approved Erosion and Sediment Control Plan.

D. The MS4 Operator's designated inspectors shall notify the on-site personnel or the developer in writing when violations are being observed, describing items to address and actions to be taken.

E. It shall be a condition of every Erosion and Sediment Control Permit that the MS4 Operator has the right to enter the construction project site periodically to inspect for compliance with the Erosion and Sediment Control Plan and this ordinance.

SECTION VI. ENFORCEMENT

A. Violations

In the event that any person holding a Erosion and Sediment Control Permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to prosperity or improvements in the neighborhood, the MS4 Operator may issue a:

1) Written Warning indicating actions deemed contrary to the Erosion and Sediment Control Permit which are required to be corrected and brought into compliance within 48 hours, or

2) Stop-Work Order; Revocation of Erosion and Sediment Control Permit in writing to any persons engaged in the doing or causing of such work to be done, and all persons shall forthwith stop such work until authorized by the MS4 Operator to proceed with the work.

B. Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than $2,500 for each offense. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provision of this ordinance shall be required to bear the expense of such restoration.

C. Appeals

Upon receipt of a written violation resulting in penalties against an Erosion and Sediment Control Permit, the Developer may, within thirty (30) days of receipt of such violation, file a written appeal to the Town Council for review of the penalties.

a) The Town Council shall complete its review within sixty (60) days of receipt of said request for appeal. The Town Council's determination on the appeal shall be in writing and set forth in detail the reason for its decision.

b) In evaluating the appeal, the Town Council shall be bound by the standards and review criteria contained or referenced herein.

c) All determinations of the Town Council arising out of this section shall be final.

SECTION VII. TERMINATION

A. Upon completion of all construction activities associated with the Erosion and Sediment Control Permit, the applicant shall submit a Notice of Termination (NOT) letter to the MS4 Operator. Termination of Permit will be issued by the MS4 Operator only if the following conditions are met:

   1. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.

   2. All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.

B. The applicant may submit an NOT letter to obtain early release from compliance with this rule if the following conditions are met:

   1. The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre.

   2. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.

   3. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.

   4. All permanent storm water quality measures have been implemented and are operational.

SECTION VIII. SEPARABILITY

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

SECTION IX. APPROVAL OF ORDINANCE NO. 36-2005

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and affect on November 1, 2005.

Passed and adopted by the Town Council of the Town of Plainfield, Indiana on this 11 day of July, 2005.

TOWN COUNCIL, TOWN OF
PLAINFIELD,
HENDRICKS COUNTY, INDIANA:

Robin G. Brandgard

Kent McPhail

Bill Kirchoff

Daniel W. Fivecoat

Edmund L. Gaddie, Jr.

Constituting a majority of all of the members of the Town Council

ATTESTED BY:

H. Michael Isaacs, Clerk-Treasurer of the Town of Plainfield, Indiana

PUBLISH: