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TOWN OF BURNS HARBOR, INDIANA TOWN CODE

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CHAPTER 4 – BUILDING CODE

ARTICLE I. BUILDING COMMISSIONER AND BUILDING PERMITS

Sec. 4-1-1. TITLE.

This ordinance, and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the Town of Burns Harbor, Indiana," may be cited as such, and will be referred to herein as "this code".

Sec. 4-1-2. PURPOSE.

The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures.

Sec. 4-1-3. AUTHORITY.

The Town of Burns Harbor hereby creates the office of Building Commissioner. The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Town of Burns Harbor, this shall be construed to give such office only the discretion of determining whether this code has been complied with; and no such provision shall be construed as giving any office discretionary powers as to what this code shall be, or power to require conditions not prescribed by ordinances or to enforce this code in an arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under I.C. 22-13-2-7(b).

Sec. 4-1-4. SCOPE.

The provisions of this code apply to the construction, alterations, repair, use, occupancy, maintenance and additions to all buildings and structures, other than fences, in the Town of Burns Harbor, Indiana.

Sec. 4-1-5. ADOPTION OF RULES BY REFERENCE.

- A. Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this (ordinance, chapter, code) and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

1. Article 13 - Building Codes
 - a. Fire and Building Safety Standards
 - b. Indiana Building Code
 - c. Indiana Building Code Standards
 - d. Indiana Handicapped Accessibility Code
 2. Article 14 - One and Two Family Dwelling Codes
 - a. Council of American Building Officials One and Two Family Dwelling Code
 - b. CABO One and Two Family Dwelling Code; Amendments
 - c. Standards for Permanent Installation of Manufactured Homes
 3. Article 16 - Plumbing Codes
 - a. Indiana Plumbing Code
 4. Article 17 - Electrical Codes
 - a. Indiana Electrical Code
 - b. Safety Code for Health Care Facilities
 5. Article 18 - Mechanical Codes
 - a. Indiana Mechanical Code
 6. Article 19 - Energy Conservation Codes
 - a. Indiana Energy Conservation Code
 - b. Modifications to the Model Energy Code
 7. Article 20 - Swimming Pool Codes
 - a. Indiana Swimming Pool Code
- B. Other Standards:
1. The current edition of the requirements for outdoor swimming pools, found in Appendix G, Section AG 105.2 of the International Residential Code, as published by the International Code Council, Inc., are hereby adopted and designated as the requirements for outdoor swimming pools in the Building Code of the Town of Burns Harbor.
 2. The current edition of the requirements for emergency escape and rescue openings, found in Chapter 3, Section R310 of the International Residential Code, as published by the International Code Council, Inc.,

are hereby adopted and designated as the requirements for emergency escape and rescue openings in the Building Code of the Town of Burns Harbor.

- C. Indiana Code 16-41-27-1, et se, providing for the licensing and regulation of mobile home parks by the State Department of Health and the resulting rules set out in the Indiana Administrative Code beginning at 410 IAC 60601 et seq for mobile park sanitation and safety are hereby incorporated by reference in the Burns Harbor Building Code which incorporation shall include later amendments to said Indiana Code and Administrative Code as the same are officially published by the State of Indiana from time to time with effective dates as are fixed from time to time in the official versions of said Indiana Code and Administration Code.
- D. Copies of adopted building rules, codes and standards are on file in the office of the Burns Harbor Clerk- Treasurer.

Sec. 4-1-6. APPLICATION FOR PERMITS.

- A. Site Plan Required. No Building Permit/Improvement Location Permit shall be issued for the foregoing purposes unless the application for a permit is accompanied by a Site Plan, which shall include a plat or sketch of the proposed location showing lot boundaries, Building Lines, Setbacks, and Easements, in addition to plans and specifications showing the work to be done. In cases where formal Site Plan approval is required under section 15-3-4 et. seq. of the Town Code or another Ordinance, no Building Permit/Improvement Location Permit shall be issued for the foregoing purposes unless the application for a permit is accompanied by the approved Site Plan. Once the Site Plan has been approved, the Building Commissioner shall process the permit application according to the provisions of this Code.
- B. State Design Release Required. A copy of a Design Release, issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3-1, shall also be provided to the Building Commissioner before issuance of a permit for construction covered under such Design Release.

Sec. 4-1-7. PERMIT REQUIRED.

- A. A permit shall be required for beginning construction on any building or structure or for the restoration or repair of any building or structure if the cost of the construction, repair or restoration exceeds \$1,000.00.
- B. A permit shall be required prior to the erection of any fence or prior to the construction of or addition to restoration or repair of any deck, or shed, regardless of the cost of such construction, restoration or repair.

- C. A permit shall not be required for the restoration or repair of an existing fence, deck or shed up to fifty percent (50%) of its original condition. (Ordinance 230-2009)
- D. A permit shall be required for beginning construction and for the alteration or repair of any residential swimming pool as is such is defined in 675 IAC Article 20 Appendix G, Section AG 105.2 of the International Residential Code.
- E. All temporary, non-permanent pools with a depth exceeding twenty-four inches (24") shall be registered with the Building Commissioner. No temporary pool exceeding twenty-four inches (24") shall be maintained within the Town without obtaining a temporary pool permit from the Building Commissioner.
- F. Commercial Site Plan Review. Prior to the issuance of a permit for a Commercial and/or Subdivision Development, developers/sub-dividers must first appear before the Plan Commission and present completed Site Plans to the Plan Commission for review.
 - a. No fee or formal application is required for this meeting.
 - b. The developer and/or sub-divider should come prepared to discuss the details of the proposed subdivision and/or commercial development including such items as proposed use, existing features of the area, existing covenants, and characteristics, availability of community facilities and utilities, size of development, park areas, or public areas, proposed protective covenants, proposed utilities and street improvements.
 - c. In order to have the matter placed on the Commission's agenda, a person requesting Commercial Site Plan Review should contact the Commission's Secretary no later than ten (10) days prior to the next regularly scheduled meeting of the Plan Commission.

Sec. 4-1-8. OTHER ORDINANCES.

All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances, including but not limited to, all engineering and legal fees of the Town's paid staff incurred in the review of applications for approval of subdivisions or planned unit development districts under Chapter 14.

Sec. 4-1-9. REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Commissioner shall:

- A. Review all building permit applications to determine full compliance with the provisions of this code.
- B. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.
- C. Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair (1) uses construction materials and utility equipment that are resistant to flood damage, and (2) uses construction methods and practices that will minimize flood damage.
- D. Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes)
 - (1) is protected against flood damage,
 - (2) is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage, and
 - (3) uses construction methods and practices that will minimize flood damage.
- E. Determine whether there are any unpaid fees owed by the developer or owner of the subdivision or the planned unit development district in which the improvement location permit site is located, including but not limited to, all engineering and legal fees of the Town's paid staff incurred in the review of applications for approval of subdivisions or planned unit development districts under Chapter 14. (*Ordinance 214, 4/9/2008*)

Sec. 4-1-10. INSPECTIONS.

- A. After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to ensure full compliance with the provisions of this ordinance and the terms of the permit.
- B. Re-inspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this code.
- C. In the case of any inspection requiring the location of public utilities, the person, firm or corporation requesting the location inspection shall pay the costs of the inspection to the Town, as shall be set forth in the current schedule on file with the office of the Clerk-Treasurer.

- D. No such location inspection fee shall be charged for location inspection requests performed in conjunction with residential building and improvement location permits.

Sec. 4-1-11. INSPECTION ASSISTANCE.

- A. The Chief of the Fire Department, or his designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commissioner.

Sec. 4-1-12. ENTRY.

- A. Upon presentation of proper credentials, the Building Commissioner or his duly authorized representatives may enter at reasonable times any building, structure or premises in the Town of Burns Harbor to perform any duty imposed upon him by this code.

Sec. 4-1-13. STOP ORDER.

- A. Whenever any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the Building Commissioner to proceed with the work.
- B. The Building Commissioner shall be authorized to stop work by written notice at any location improvement site where it is determined there are any unpaid fees owed by the developer or owner of the subdivision or the planned unit development district in which the improvement location site is located, including but not limited to, all engineering and legal fees of the Town's paid staff incurred in the review of applications for approval of subdivisions or planned unit development districts under Chapter 14.
- C. The Clerk-Treasurer shall forward to the Building Commissioner a list, by subdivision or planned unit development district, where there are legal or engineering fees that have been unpaid for more than thirty (30) days.

Sec. 4-1-14. CERTIFICATE OF OCCUPANCY.

- A. No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this ordinance shall be issued unless such building or structure was erected, altered or repaired in compliance with the provisions of this ordinance.
- B. It shall be unlawful to occupy any such building or structure unless a full, partial, conditional, or temporary certificate of occupancy has been issued by the Building Commissioner.

- C. No occupancy permit shall be issued unless the owner has completed landscaping in accordance with the requirements of Chapter 15 or has provided sufficient security in the form of a \$3,000 cash bond or other surety bond or letter of credit with an accompanying schedule for completion of the landscaping required in a form acceptable to the Building Commissioner.
- D. In cases where the landscaping requirements are secured by a bond or letter of credit, occupancy shall be conditioned upon completion of the landscaping requirements.
- E. No occupancy permit shall be issued for any property unless all sidewalks or driveways have been installed. Conditional occupancy may be granted in cases where weather conditions do not permit the installation of the sidewalk or driveway, provided that a cash bond or other surety bond or letter of credit in the amount of the greater of \$10,000 or the Building Commissioner's estimate of the one hundred ten percent (110%) of the costs of installing the unfinished sidewalk or driveway, along with an accompanying schedule for completion, is posted with the Town.
- F. No conditional occupancy permit issued pursuant to this Section shall be issued for a period of more than one hundred eighty (180) days.

Sec. 4-1-15. WORKMANSHIP.

- A. All work on the construction, alteration and repair of building and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

Sec. 4-1-16. VIOLATIONS.

- A. It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the Town of Burns Harbor or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

Sec. 4-1-17. RIGHT OF APPEAL.

- A. All persons shall have the right to appeal the Building Commissioner's decision first through the Town Council of the Town of Burns Harbor and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7.

Sec. 4-1-18. REMEDIES.

- A. If the Building Commissioner finds any violation of this Chapter or the Town Code pertaining to the use and occupancy of Buildings or land within the Town, he shall in the name of the Town of Burns Harbor bring actions for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or

orders made, and any such action or mandatory or injunctive relief may be joined with an action to recover the penalties provided for in Town Code. In any action commenced under this paragraph or otherwise brought to enforce the provisions of this Chapter, and in the event the Town prevails, the Town shall recover, in addition to any penalty, its attorney fees and staff costs incurred in connection with such proceedings at the rates on file with the Clerk-Treasurer.

Sec. 4-1-19. PERMIT FEES.

REFER TO CHAPTER 15 ADDENDUM

Sec. 4-1-20. PERMIT FEE REQUIRED.

- A. That no application will be issued until the building permit fee is received.

Sec. 4-1-21. PENALTIES.

- A. If any person, firm or corporation shall violate any of the provisions of this ordinance, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or in connection with the provisions of this ordinance for each such violation, failure or refusal, such person firm or corporation may be fined in any sum not less than \$500.00 nor more than \$2,000.00.
- B. Each day of such unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.

ARTICLE II. UNSAFE BUILDING

Sec. 4-2-1. UNSAFE BUILDING LAW ESTABLISHED.

- A. Under the provisions of Indiana Code 36-7-9, there is hereby established the Burns Harbor Unsafe Building Law.

Sec. 4-2-2. INDIANA CODE ADOPTED BY REFERENCE.

- A. Indiana Code 36-7-9-1 through 36-7-9-28 is hereby adopted by reference as the Burns Harbor Unsafe Building Law.
- B. All proceedings with the Town of Burns Harbor for the inspection, repair, and removal of unsafe buildings shall be governed by said law and the provisions of this ordinance.
- C. In the event the provisions of this ordinance conflict with the provisions of Indiana Code 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.
- D. Two copies of I.C. 36-7-9-1 through 36-7-9-28 are on file for public review in the office of the Clerk-Treasurer of the Town of Burns Harbor.

Sec. 4-2-3. UNSAFE BUILDING TO BE REPAIRED OR REMOVED.

- A. Under the provisions of Indiana Code 36-7-9, there is hereby established the Burns Harbor Unsafe Building Law.

Sec. 4-2-4. ENFORCEMENT.

- A. The Burns Harbor Building Commissioner, as chief administrative officer of the Building Department of the Town of Burns Harbor, is the enforcement authority under this ordinance and shall be authorized to administer and proceed under the provisions of said law in ordering the repair or removal of any buildings found to be unsafe as specified herein or as specified hereafter.
- B. The hearing authority under the terms of this ordinance and Indiana law shall be the Town Council of the Town of Burns Harbor.

Sec. 4-2-5. OFFICER'S AUTHORITY RE: ENFORCEMENT.

- A. Wherever in the building regulations of the State of Indiana or the Burns Harbor Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner, or any other officer of the Town, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what such regulations or standards shall be,

power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

Sec. 4-2-6. DEFINITION OF UNSAFE BUILDING.

- A. The description of an unsafe building contained in Indiana Code 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the Town of Burns Harbor, Indiana, by adding the following definition:

UNSAFE BUILDING: Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered.

- i. Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- ii. Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose or location.
- iii. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location.
- iv. Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- v. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.
- vi. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

- vii. Whenever the building or structure, or any portion thereof, because of (1) dilapidation, deterioration, or decay; (2) faulty construction; (3) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay or inadequacy of its foundation; or (5) any other cause, is likely to partially or completely collapse.
- viii. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- ix. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- x. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent or more damage or deterioration of its supporting member or members, or fifty percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- xi. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated so as to become
 - 1. an attractive nuisance to children, or
 - 2. freely accessible to persons for the purpose of committing unlawful acts.
- xii. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this Town, or of any law or ordinance of this state or town relating to the condition, location or structure of buildings.
- xiii. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting part, member or portion less than fifty percent, or in any supporting part, member or portion less than sixty-six percent of the
 - 1. Strength
 - 2. fire-resisting qualities or characteristics, or
 - 3. weather resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

- xiv. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the Health Official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
- xv. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the Building Commissioner to be a fire hazard.
- xvi. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

Sec. 4-2-7. SUBSTANTIAL PROPERTY INTEREST.

- A. The definition of "substantial property interest" set forth in I.C. 36-7-9-2 is hereby incorporated by reference herein as copied in full.

Sec. 4-2-8. WORK STANDARDS.

- A. All work for the reconstruction, alteration, repair or demolition of buildings and other structures shall be performed in a good workmanlike manner according to the accepted standards and practices in the trade.
- B. The provisions of the rules pertaining to construction, plumbing, electrical, mechanical, and one and two family dwellings, promulgated by the Administrative Building Council of Indiana, shall be considered standard and acceptable practice for all matters covered by this ordinance or orders issued pursuant to this ordinance by the Building Commissioner of the Town of Burns Harbor, Indiana.

Sec. 4-2-9. FUND ESTABLISHED.

- A. An Unsafe Building Fund is hereby established in the operating budget of the Town of Burns Harbor in accordance with the provisions of I.C. 36-7-9-14.

Sec. 4-2-10. VIOLATION PENALTIES.

- A. No person, firm, or corporation, whether as owner, lessee, sub-lessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this ordinance or any order issued by the Town.

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- B. Any person violating the provisions of this ordinance shall be subject to a fine of not more than \$2,500.00.

ARTICLE III. CULVERTS

Sec. 4-3-1. CULVERTS REQUIRED.

- A. Where required to facilitate proper roadside drainage, each party installing a driveway entrance shall be required to install and maintain a 12 inch minimum diameter 12 gauge or heavier corrugated galvanized steel pipe at least 20 feet in length with flared end sections or concrete head walls designated so as not to create a hazard to the under part of automobiles, at the entrance of each driveway.

Sec. 4-3-2. BLOCKING OF DITCHES PROHIBITED.

- A. No party shall fill or otherwise block roadside drainage ditches.
- B. They shall be permitted to install field tile or other suitable conduit for roadside water, providing the top of the cover over such tile or conduit is at least 12 inches below the surface of the pavement adjacent to said tile or conduit.
- C. All such tile installed shall be the property owners to maintain.

Sec. 4-3-3. RESPONSIBILITY OF LANDOWNER.

- A. It shall be the duty of each party to ensure the culvert or drain is of sufficient capacity and in the proper location to comply with Sec. 4-40 and 4-41 above.
- B. It is recommended that parties request the advice of the Burns Harbor Street Commissioner before making said installation and should such facility be inadequate or require replacement, it shall be the obligation of the party using the driveway entrance and shall in no way be any liability to the Burns Harbor Street Commissioner.

ARTICLE IV. NUMBERING OF STRUCTURES

Sec. 4-4-1. NUMBERING OF STRUCTURES REQUIRED.

- A. It shall be the duty of the owner or occupant of each house, business structure or other structure within the Town of Burns Harbor, Porter County, Indiana, now existing or hereafter erected which has been assigned a mailing address for the receipt of mail through the United States Postal system to place on such structure letters or numerals not less than 5 inches high showing the number of the mailing address of each such structure.
- B. The aforesaid letters or numerals shall be placed on said structures so that they are visible from the street and shall contrast with the color of the structure.
- C. In addition, in the event that the structure is not visible from the street, then the mailing address should be placed in such a way that it is visible from the street, making it possible for emergency vehicles to easily locate and identify the structure.

Sec. 4-4-2. VIOLATIONS; PENALTIES.

- A. Violations of this Ordinance shall be punishable by a fine of one hundred dollars (\$100.00) for a first offense.
- B. Second and subsequent violations shall be subject to the general penalty provisions found in Sec. 1-9 of the Town Code.

ARTICLE V. MANUFACTURED FLOORS & ROOFS

Sec. 4-5-1. DEFINITIONS.

The following definitions shall apply throughout this Chapter:

- A. “Manufactured floor” shall mean any floor support system, including I-beam joists, trusses, rim boards or headers, constructed in whole or in part with manufactured or engineered wood products as opposed to conventional or natural wood products.
- B. “Manufactured roof” shall mean any roof support system, including I-beam joists, trusses, or rafters, constructed in whole or in part with manufactured or engineered wood products as opposed to conventional or natural wood products.

Sec. 4-5-2. APPLICABILITY.

- A. The provisions of Sections 4-5-1 through 4-5-7 shall apply to all commercial and residential new construction and to alterations of structures and accessory structures, as such alterations are defined by Section 15-2-2 (10), located within the Town of Burns Harbor and for which a final occupancy permit has not been issued as of the effective date of this Ordinance.

Sec. 4-5-3. IDENTIFICATION REQUIRED.

- A. The builder or owner of any structure containing a manufactured floor or manufactured roof shall clearly identify the existence of such manufactured floor or manufactured roof within the structure.
- B. It shall be a condition of the issuance of a final occupancy permit that fire resistant tags be conspicuously posted on the gas or electric utility meter located on the outside of the structure. Structures containing manufactured floors shall be designated with a tag indicating “F” and structures containing manufactured roofs shall be designated with a tag indicating “R”.
- C. Structures containing both manufactured floors and manufactured roofs shall be designated with a tag indicating “RF”.

Sec. 4-5-4. DISCLOSURE REQUIRED ON PERMIT APPLICATION.

- A. Builders and owners shall disclose the use of manufactured floors or manufactured roofs on the application for an improvement location permit.

Sec. 4-5-5. TAGS.

- A. The Town of Burns Harbor Building Commissioner shall make available the tags required by this Chapter, which shall be purchased by the builder or owner and installed prior to occupancy.
- B. Any individual who removes a tag installed pursuant to this Chapter shall be subject to a fine in accordance with Section 4-5-7 of this Chapter.

Sec. 4-5-6. INSPECTIONS.

- A. All structures and accessory structures for which an improvement location permit is applied for after the effective date of this Ordinance shall be subject to inspection by the Town of Burns Harbor Building Commissioner to ensure compliance with the provisions of this Ordinance.
- B. To ensure compliance with this Ordinance, the Building Commissioner or his designee shall have the right of entry into any structure or accessory structure subject to the provisions of this Ordinance.

Sec. 4-5-7. PENALTIES.

- A. Any person who violates Section 4-5 of this Chapter shall be fined \$250.00 for a first violation and up to \$2,500.00 for any second or subsequent violation.
- B. Each violation of Section 4-5 shall constitute a separate offense, and each day that the violation continues shall constitute a separate offense.
- C. This Section shall not be construed as limiting any remedy available to the Town, including injunctive relief or the General Penalty provisions of the Town Code, which are found at Section 4-1-21.

ARTICLE VI. LOCK BOXES

Sec. 4-6-1. DEFINITIONS.

- A. Building – shall mean any structure used or intended for supporting or sheltering any occupancy.
- B. Code Official - shall mean the Town of Burns Harbor Fire Chief or his designee responsible for enforcement of this ordinance.
- C. Lock Box – shall mean a high security key vault, which is listed under the UL 1610 and the UL 1037 standards, master, keyed configuration, provided by the Fire Department that provides contracted services to the Town of Burns Harbor.
- D. Fire Department – shall mean the fire company contracted to provide fire/rescue protection and services to the Town of Burns Harbor.

Sec. 4-6-2. APPLICABILITY.

- A. This ordinance applies to
 - a. any commercial or industrial structures, multi-family residential and apartment complexes,
 - b. structures that have restricted access through locked doors
 - c. governmental buildings, nursing care facilities, educational buildings, places of assembly (churches), and other at-risk properties that are not occupied 24 hours a day without interruption.
- B. This ordinance shall not apply to owner occupied one- and two-family dwellings and individual townhouse units that have shared entranceways.
- C. For the purpose of this ordinance, individual townhouse units are considered single family by unit.

Sec. 4-6-3. SECURITY FENCE, GATES PADLOCKS.

- A. When property contains a building or structure that is protected by a locked fence or gate, the Code Official may require a Padlock to be installed at a location and in a manner approved by the Code Official.

Sec. 4-6-4. MANDATORY LOCK BOXES FOR HAZARDOUS MATERIALS.

- A. The Code Official shall require a Lock Box to be installed for any facilities, firm, or corporation which handles, uses, or stores hazardous materials and/or is required to prepare the emergency services material safety data sheets (MSDS) or hazardous chemical inventory forms under SARA Title III.
- B. All pertinent documents shall be stored in a Lock Box Document Vault. This includes any facility, firm or corporation operating structures that handle, use or store hazardous materials.
- C. The key shall be of a type and size approved by the Code Official.

Sec. 4-6-5. LOCK BOXES.

- A. The owner or operator of a structure subject to this ordinance is required at all times to assure at all times the key(s) in the Lock Box will allow access to the structure.
- B. The box shall contain the following:
 - a. Keys to locked points of egress, whether interior or exterior of such buildings;
 - b. Keys to locked mechanical rooms;
 - c. Keys to locked elevator rooms or controls;
 - d. Keys to any fence or secured areas;
 - e. A card containing the emergency contact people and phone numbers of said people; and
 - f. An inventory of all keys placed inside the Lock Box.

Sec. 4-6-6. INSTALLATION.

The Lock Box shall be approved by the Code Official and shall be installed on the front of the building near the main entry door and between six (6) and eight (8) feet above the ground unless approved at a higher or lower level by the Code Official. A registration form with the Town of Burns Harbor is required prior to the installation of a Lock Box in order to verify proper mounting, location and keying of the Lock Box.

Sec. 4-6-7. COMPLIANCE.

- A. All existing buildings shall comply with this ordinance one (1) year from the effective date of this ordinance.
- B. All newly constructed buildings not yet occupied or buildings currently under construction, and all buildings or businesses applying for certificate of occupancy, shall comply immediately upon the effective date of this ordinance.

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Sec. 4-6-8. ENFORCEMENT.

- A. Any person, entity or corporation who has violated any provisions of this Article or who has failed to comply with an order concerning this Article issued by the Code Official of the Town of Burns Harbor shall be punished by a fine of not more than Three Hundred Dollars (\$300.00).

- B. Each day a violation continues shall be considered a separate offense.

ARTICLE VII. FLOOD ORDINANCE

Article 1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

Section A. Statutory Authorization

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Burns Harbor does hereby adopt the following floodplain management regulations.

Section B. Findings of Fact

The flood hazard areas of the Town of Burns Harbor are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

Section C. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;

- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

Section D. Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

Article 2. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure means a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

- (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- (2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.

(3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:

- a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;
- b. Structures used by the public, such as a place of employment or entertainment; and,
- c. Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples includes, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Area of special flood hazard is the land within a community subject to a one (1) percent or greater chance of being flooded in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

Base Flood Elevation (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Best Available Flood Layer (BAFL) means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information floodplain limits, and/or floodway delineations for

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flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the structure.

Building – See "Structure."

Coastal High Hazard Area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-30, VE, VO, or V.

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

Development means, for floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of boat lifts, docks, piers and seawalls;
- (7) construction and/or reconstruction of, bridges or culverts;
- (8) storage of materials; or
- (9) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting; re-roofing; resurfacing roads; or, gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Elevation Certificate means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

Enclosed area (enclosure) is an area of a structure enclosed by walls on all sides.

Enclosure below the lowest floor. See "Lowest Floor" and "Enclosed Area."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Fill for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood hazard area means areas subject to the one percent annual chance flood. (See “Special Flood Hazard Area”)

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) means the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

Flood prone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Floodplain”)

Flood Protection Grade (FPG) is the BFE plus two (2) feet at any given location in the SFHA. (See “Freeboard”)

Floodplain or flood prone area means any land area susceptible to being inundated by water from any source. (See “Flood”)

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe or **Flood Fringe** is the portion of the floodplain lying outside the floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Town of Burns Harbor Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Hydrologic and hydraulic engineering analysis means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices

that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

International Code Council-Evaluation Service (ICC-ES) Report means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

Lattice work – see “Breakaway wall.”

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

- (1) **Conditional Letter of Map Revision (CLOMR)** means FEMA’s comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- (2) **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- (3) **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- (4) **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
- (5) **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- (6) **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA’s modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means, for floodplain management purposes, the lowest elevation described among the following:

- (1) The lowest floor of a building.
- (2) The basement floor.
- (3) The garage floor if the garage is connected to the building.
- (4) The first floor of a structure elevated on pilings or pillars.
- (5) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - b. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.
- (6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

Natural grade for floodplain management purposes means the elevation of the undisturbed

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natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

New construction for floodplain management purposes means any structure for which the “start of construction” commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See “Regulatory Flood”.

Physical Map Revision (PMR) is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Prefabricated Building is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a mild slope.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck;
- (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3, B of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Solid waste disposal facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Special Flood Hazard Area (SFHA), synonymous with "areas of special flood hazard" and floodplain, means those lands within the jurisdiction of the town subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, as Zones A, AE, AH, AO, A1-30, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

Variance is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

Violation means the failure of a structure or other development to be fully compliant with this ordinance.

Walled and roofed means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

Watercourse means a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Article 3. General Provisions.

Section A. Lands to Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of the Town of Burns Harbor Indiana as identified in Article 3, Section B, including any additional areas of special flood hazard annexed by the Town of Burns Harbor Indiana.

Section B. Basis for Establishing the Areas of Special Flood Hazard

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Burns Harbor, delineated as an “AE Zone” on the Porter County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 29, 2022 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of Porter County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated September 29, 2022 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an “AE Zone”, the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.
- (2) The regulatory flood elevation for the SFHAs of Lake Michigan, delineated as a “VE Zone” on the Porter County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 29, 2022 shall be the highest elevation specified on the FIRM among all flood zones affecting the proposed development, as well as any subsequent updates, amendments or revisions, prepared by the Federal Emergency Management Agency.
- (3) The regulatory flood elevation for the SFHAs of Lake Michigan, delineated as a “AE Zone” on the Porter County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 29, 2022 shall be the highest elevation published on the Porter County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 29, 2022 among all flood zones affecting the proposed development, as well as any subsequent updates, amendments, or revisions prepared by the Federal Emergency Management Agency with the most recent date.
- (4) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Burns Harbor, delineated as an "A Zone" on the Porter County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated September 29, 2022, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of

Natural Resources for review and subsequently approved.

- (5) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- (6) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

Section C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

Section D. Compliance

- (1) No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.
- (2) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual

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ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.

- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

Section G. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section H. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of Burns Harbor, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance, or any administrative decision made lawfully thereunder.

Section I. Penalties for Violation

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Burns Harbor. All violations shall be punishable by a fine not exceeding \$2,500 per day per violation.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Town of Burns Harbor Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

- (3) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Article 4. Administration.

Section A. Designation of Administrator

The Town Council of the Town of Burns Harbor hereby appoints the Building Commissioner to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Section B. Floodplain Development Permit and Certification Requirements

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with a special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application Stage.

- a. A description of the proposed development;
- b. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
- c. A legal description of the property site;
- d. For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;
- e. A site development plan showing existing and proposed development locations and existing and proposed land grades;
- f. A letter from a licensed professional surveyor or engineering noting that an elevation reference benchmark has been established or confirmed for those

- projects requiring elevations to be met;
- g. Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures with plumbing;
 - h. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AE. In Zones V or VE, plans must also show the elevation of the bottom of the lowest supporting horizontal member. Elevation should be in NAVD 88;
 - i. Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed;
 - j. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;
 - k. Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;
 - l. Plans showing how any proposed structure will be anchored to resist flotation or collapse;
 - m. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88;
 - n. Certification of structural design and methods of construction for VE zone construction as required by Article 5, Section D (5);
 - o. Certification of breakaway wall design, when applicable, as provided in Article 5, Section D (5);
 - p. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (See Article 4, Section C (8) and Article 4, Section E for additional information.)
 - q. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(2) Construction Stage

- a. Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

- a. Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the “as-built” lowest floor elevation, lowest supporting horizontal member for structures in Zones V or VE, and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.
- b. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
- c. Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

Section C. Duties and Responsibilities of the Administrator

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose. Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (1) Enforce the provisions of this ordinance.
- (2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- (3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.

- (5) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- (7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
 - a. Verify and document the market value of the pre-damaged or pre-improved structure;
 - b. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
 - c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and
 - d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in Article 5 of this ordinance are required.
- (8) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
- (9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section A (1), Section A (3) (a) and Section A (4) of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory

assessment).

- (10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if Article 4, Section C (9) is applicable.
- (11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B.
- (13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
- (14) Make on-site inspections of projects in accordance with Article 4, Section D.
- (15) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
- (16) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- (17) Provide information, testimony, or other evidence as needed during variance hearings.
- (18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Article 4, Section D.
- (19) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with Section Article 4, Section D.
- (20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with Article 4, Section E.
- (21) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (22) Request any additional information which may be necessary to determine the disposition

of a proposed development or structure with respect to the requirements of this ordinance.

Section D. Administrative Procedures

(1) Inspections of Work in Progress. As the work pursuant to a permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(2) Stop Work Orders.

- a. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
- b. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(3) Revocation of Permits.

- a. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- b. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

(4) Floodplain Management Records.

- a. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance;

notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.

- b. These records shall be available for public inspection at the Burns Harbor Building Department located at 310 Navajo Trail, Burns Harbor, IN 46304.

- (5) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

Section E. Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Town of Burns Harbor flood maps, studies and other data identified in Article 3, Section B accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data

- a. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- b. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website.

Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

- c. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
- d. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(2) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details.

Such a submission shall include appropriate supporting documentation made in writing by the Town Council President of the Town of Burns Harbor and may be submitted to FEMA at any time.

(3) Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the Town of Burns Harbor have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Porter County, Indiana and Incorporated Areas Flood Insurance Rate Map accurately represent the Town of Burns Harbor boundaries, include within such notification a copy of a map of the Town of Burns Harbor suitable for reproduction, clearly showing the new corporate limits or the new area for which the Town of Burns Harbor has assumed or relinquished floodplain management regulatory authority.

Section F. Variance Procedures

- (1) The Town of Burns Harbor Board of Zoning Appeals (the board) as established by the Burns Harbor Town Council shall hear and decide appeals and requests for variances from requirements of this ordinance.
- (2) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Porter County Circuit or Superior Court.
- (3) In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- a. the danger to life and property due to flooding or erosion damage;
 - b. the danger that materials may be swept onto other lands to the injury of others;
 - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. the importance of the services provided by the proposed facility to the community;
 - e. the necessity to the facility of a waterfront location, where applicable;
 - f. the compatibility of the proposed use with existing and anticipated development;
 - g. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - h. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i. the expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site; and,
 - j. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (4) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (5) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
- a. A showing of good and sufficient cause.
 - b. A determination that failure to grant the variance would result in exceptional hardship as defined in Article 2.
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (6) No variance for a residential use within a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) of this ordinance may be granted.

- (7) Any variance granted in a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (8) Variances to the Provisions for Flood Hazard Reduction of Article 5 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (9) Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- (10) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- (11) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (12) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (13) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (14) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

Article 5. Provisions for Flood Hazard Reduction.

Section A. Floodplain Status Standards

(1) Floodways (Riverine)

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (IC 14-28-1) a permit for construction in a

floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

- a. If the site is in a regulatory floodway as established in Article 3, Section B, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
- b. No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
- c. The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
- d. In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of Article 4, Section E (1). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
- e. In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

- f. For all projects involving channel modifications or fill (including levees) the town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(2) Fringe (Riverine)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

(3) SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

- a. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

- b. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-

percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

(4) SFHAs not Identified on a Map

- a. If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
- b. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- c. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.

(5) Coastal High Hazard Areas

Areas in/around Lake Michigan are designated as coastal high hazard areas as established in Article 3, Section B. These areas have special flood hazards associated with wave wash. A person, other than a public or municipal water utility, may not place, fill, or erect a permanent structure in; remove water from; or remove material from a navigable waterway without a permit from the Indiana Department of Natural Resources (IC 14-19-1). Once a permit or approval has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit provided the applicable provisions in this article have been met.

Section B. General Standards

In all areas of special flood hazard, the following provisions are required:

- (1) All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- (3) New construction and substantial improvements must incorporate methods and practices that minimize flood damage;
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- (5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (8) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance;
- (9) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;
- (10) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (11) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3’ horizontal to 1’ vertical.

- (12) Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- (13) Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard.

Section C. Specific Standards (Not Applicable to Coastal High Hazard Areas)

In all areas of special flood hazard where base flood elevation data or flood depths have been provided (other than coastal high hazard areas), as set forth in Article 3, Section B, the following provisions are required:

- (1) Building Protection Requirement.** In addition to the general standards described in Article 5, Section B, structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - a. Construction or placement of a residential structure;
 - b. Construction or placement of a non-residential structure;
 - c. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes;
 - d. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost);
 - e. Installing a travel trailer or recreational vehicle on a site for more than 180 days;
 - f. Reconstruction or repairs made to a repetitive loss structure; and
 - g. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

(2) Residential Construction.

- a. New construction or substantial improvement of any residential structures shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section C (2) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (2) (d) must be met.
- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report). Non-engineered openings must have a total net area of not less than one square inch for every one square foot of enclosed area. Both engineered and non-engineered flood openings must meet the following installation criteria:
 - A. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls.
 - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - C. Doors and windows do not qualify as openings;
 - D. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
 - E. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

- ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A residential structure may be constructed on **fill** in accordance with the following
 - i. Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;
 - ii. Fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE;
 - iii. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;
 - iv. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties;
 - v. Fill shall be composed of clean granular or earthen material.
- e. A residential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(3) Non-Residential Construction.

- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction, or substantial improvement of any commercial, industrial, or nonresidential structure (excludes accessory structures) shall either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section C (3) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (3) (d) must be met.

- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - A. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);
 - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
 - C. Doors and windows do not qualify as openings;
 - D. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;
 - E. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 - ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A nonresidential structure may be **constructed on fill** in accordance with the following:
 - i. Shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;
 - ii. Shall extend 10 feet beyond the foundation of the structure before sloping below the BFE;
 - iii. Shall be protected against erosion and scour during flooding by vegetative

cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical;

- iv. Shall not adversely affect the flow of surface drainage from or onto neighboring properties;
 - v. Shall be composed of clean granular or earthen material.
- e. A nonresidential structure may be **floodproofed** in accordance with the following:
- i. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.
 - ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- f. A nonresidential structure may be constructed using a **stem wall foundation** (also called chain wall, raised slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(4) Manufactured Homes and Recreational Vehicles.

- a. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
 - i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section C (2) (c).
 - iii. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

- b. Recreational vehicles placed on a site in the SFHA shall either:
 - i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
 - ii. Meet the requirements for “manufactured homes” as stated earlier in this section.

(5) Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- a. Shall have a floor area of 400 square feet or less;
- b. Use shall be limited to parking of vehicles and limited storage;
- c. Shall not be used for human habitation;
- d. Shall be constructed of flood resistant materials;
- e. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- f. Shall be firmly anchored to prevent flotation;
- g. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG;
- h. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section C (3) (c) and,
- i. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(6) Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a. Shall have open sides (having not more than one rigid wall);

- b. Shall be anchored to prevent flotation or lateral movement;
- c. Shall be constructed of flood resistant materials below the FPG;
- d. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG;
- e. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

(7) Above Ground Gas or Liquid Storage Tanks.

Within SFHAs designated as Zones A, AE, on the community's FIRM, all newly placed or replacement aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in Article 5, Section C (3).

Section D. Specific Standards for Coastal High Hazard Areas (Zone VE)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as coastal high hazard areas in/along Lake Michigan (Zone VE). These areas have special flood hazards associated with wave wash. The following provisions apply within coastal high hazard areas:

1. Human-made alterations of sand dunes within a coastal high hazard area are prohibited unless an engineering report documents that the alterations will not increase potential flood damage by reducing the wave and flow dissipation characteristics of the sand dunes.
2. The use of fill for structural support of buildings is prohibited.
3. Non-structural fill within a coastal high hazard area shall be permitted only if an engineering report demonstrates that the fill will not cause runup, ramping, or deflection of floodwaters that cause damage to buildings.
4. Within a Coast High Hazard Area, bulkheads, seawalls, revetments, and other erosion control measures shall not be connected to the foundation or superstructure of a building and shall be designed and constructed so as not to direct floodwaters or increase flood forces or erosion impacts on the foundation or superstructure of any building.
5. New construction and substantial improvements must be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is at or above the FPG. The pile or column foundation and structure attached thereto must be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all

building components.

- a. Water loading values used must be those associated with the base flood.
- b. Wind loading values used must be those required by applicable State or local building standards; or in the absence of applicable State or local building standards, those determined according to American Society of Civil Engineers 7-16, *Minimum design loads and associated criteria for buildings and other structures*, or equivalent standard.
- c. A registered professional engineer or architect must develop or review the structural design, specifications, and plans for the construction, and must certify that that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.
- d. New construction and substantial improvements must have the space below the lowest floor either free of obstruction or be constructed with non-supporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
- e. For purposes of this section, a breakaway wall must have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot.
- f. Use of breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot, either by design or where so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the design proposed meets the following conditions:
 - i. Breakaway wall collapse must result from a water load less than that which would occur during the base flood; and
 - ii. The elevated portion of the building and supporting foundation system must not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components, structural and nonstructural.
 1. Water loading values used must be those associated with the base flood.
 2. Wind loading values used must be those required by applicable State or local building standards; or in the absence of applicable State or local building standards, those determined according to American Society of Civil Engineers 7-16, *Minimum design loads and associated criteria for buildings and other structures*, or equivalent standard.

- g. Any enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage.
- h. Placement or substantial improvement of manufactured homes must comply with Article 5, Section C (4).
- i. Recreational vehicles must either:
 - i. Be on site for fewer than 180 consecutive days;
 - ii. Be fully licensed and ready for highway use; or
 - iii. Comply with Article 5, Section C (4).

Section E. Standards for Subdivision and Other New Developments

- (1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) In all areas of special flood hazard where base flood elevation data area not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- (7) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

Section F. Standards for Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must

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be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

Article 6. Legal Status Provisions

Section A. Severability

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

Section B. Effective Date

This ordinance shall be in full force and effect September 29, 2022.

ARTICLE VIII. SMOKE DETECTORS

Sec. 4-8-1. DEFINITIONS.

As used in this Article:

- F. Corridor shall be defined as a hallway or other area on each floor providing access to individual dwelling areas within a multiple dwelling unit or rental unit.
- G. Mobile home rental shall be defined as any mobile home or trailer occupied by or offered for occupancy to an individual or individuals as a residence on a rental basis.
- H. Multiple family dwelling unit shall be defined as any building that contains living quarters for two (2) or more occupancies, and shall include hotels, motels, boarding houses, sleeping room houses, buildings of mixed occupancy, having any residential units, nursing homes, convalescent homes, licensed half way houses, or lodging houses.
- I. Sleeping area shall be defined as the area of a unit in which bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.
- J. Smoke detector shall be defined as a device which detects particles or products of combustion other than heat, approved by Underwriters' Laboratories, Inc., or Factory Mutual, equipped with a test button, and may be either battery powered, minimum 9 volt, or 110 volt A.C. and which conforms to the Uniform Building Code Standard No. 43 6 as amended from time to time.

Sec. 4-8-2. INSTALLATION.

- A. Detectors shall be installed in the following properties:
 - a. All new single and multiple family dwellings.
 - b. All existing two family or multiple family dwellings.
 - c. All rental dwellings either single or multiple.
 - d. All new and existing trailer homes.
 - e. All new and existing apartment houses.
 - f. All new and existing hotels, motels and rooming houses.
 - g. All new and existing dwellings above business property.

- B. When activated, all smoke detectors shall provide an audible alarm of at least 85 decibels at 10 feet, and such alarm shall be capable of persisting for at least 4 minutes.
- C. If a smoke detector is alternating current powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply.
- D. The installation of alternating current powered detectors shall conform to all electrical standards adopted by the Town.
- E. A smoke detector rewired under this Article shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any Town electrical standard, the Town electrical standard shall take precedence.

Sec. 4-8-3. MAINTENANCE.

- A. It shall be unlawful for any person to tamper with or remove any smoke detector except when it is necessary for maintenance or inspection purposes.
- B. Any smoke detector removed for repair or replacement must be reinstalled or replaced so that it is in place during normal sleeping hours.
- C. At every change of tenant in every multiple family dwelling unit or mobile home rental, smoke detectors shall be tested to see that they are in operable condition.

Sec. 4-8-4. RESPONSIBILITY.

- A. Every owner, manager or agent of any multiple family dwelling unit or mobile home rental shall be responsible for the installation and maintenance of all smoke detectors.
- B. This requirement applies to smoke detectors required by any State or Federal law as well as by this article, unless otherwise required by State or Federal law.

Sec. 4-8-5. CERTIFICATES OF COMPLIANCE.

- A. Between January first and January thirty first each year the owner of each dwelling unit and mobile home in which a smoke detector has been installed shall
 - a. certify in writing on forms prescribed by the Town to the fire inspection division of the Town fire department that the required maintenance has been performed on all detectors in the owner's units
 - b. and that the detectors are in good working condition in the owner's units and that the detectors are in good working condition as of the date of certification.
- B. Each owner shall certify to each new occupant of any dwelling unit and mobile home

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covered by this Article that all smoke detectors required have been installed and are in proper working condition.

Sec. 4-8-6. ENFORCEMENT.

- A. The building department and the fire department of the Town shall be charged with the duty of enforcing the terms of this Article.

ARTICLE IX. STORMWATER MANAGEMENT ORDINANCE

Sec. 4-9-1. GENERAL INFORMATION.

(a) AUTHORITY AND TITLE

This Ordinance is adopted in accordance with statutory authority granted to Town of Burns Harbor under “Home Rule” and further is required by Phase II of the National Pollutant Discharge Elimination System Stormwater program (40 CFR Parts 9, 122, 123, and 124; December 8, 1999) authorized by the 1987 amendments to the Clean Water Act, the Indiana Department of Environmental Management’s (IDEM) Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP), and the Indiana Department of Environmental Management’s Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this Ordinance regulates:

- i. Discharges of prohibited non-stormwater flows into the storm drain system.
- ii. Stormwater drainage improvements related to development of lands located within the corporate boundaries of the Town of Burns Harbor.
- iii. Drainage control systems installed during new construction and grading of lots and other parcels of land.
- iv. Stormwater, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity
- v. Stormwater discharges from construction support activities directly related to construction sites subject to this ordinance.
- vi. Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
- vii. The design, construction, and maintenance of stormwater drainage facilities and systems.
- viii. The design, construction, and maintenance of stormwater quality facilities and systems.
- ix. The design, construction, and maintenance of new dams
- x. The development downstream of existing dams
- xi. Development within floodplains, floodways, fluvial erosion hazard corridors, and bluff zones

This Ordinance shall be known and may be cited as the Town of Burns Harbor Stormwater Management Ordinance. Once adopted, this Ordinance will supersede any conflicting ordinances previously adopted by the Town of Burns Harbor.

(b) APPLICABILITY AND EXEMPTIONS

This Ordinance shall regulate all development and redevelopment occurring within the Town of Burns Harbor. No building permit shall be issued and no land disturbance started for any construction in a development, as defined in Appendix A, until the plans required by this

Ordinance for such construction have been accepted in writing by the Town of Burns Harbor. With the exception of the requirements of Section 2 and Section 6(d) of this Ordinance, single-family dwelling houses and duplexes in accepted subdivisions, and land-disturbing activities affecting less than an aggregate of 10,000 square feet of area shall be exempt from the requirements of this Ordinance. Also exempt from this Ordinance shall be agricultural land-disturbing activities.

In addition to the requirements of this Ordinance and its companion Stormwater Technical Standards Manual, compliance with all applicable ordinances of the Town of Burns Harbor as well as with applicable Federal, State of Indiana, and other Local statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available. Town of Burns Harbor capital improvement projects shall be exempt from obtaining a permit, but are expected to meet all applicable technical requirements of this Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual. If the project site is located within a Porter County Regulated Drain Watershed, the applicant will need to check with the Porter County Surveyor's Office to learn if additional Surveyor's Office requirements specific to that regulated drain would apply to the site. In case there are conflicts between the requirements contained in this Ordinance and applicable requirements contained in other regulatory documents referenced above, the most restrictive shall prevail.

Any construction project which has had its final drainage plan accepted by the Town of Burns Harbor within a 2-year period prior to the effective date of this Ordinance shall be exempt from all requirements of this Ordinance that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in Section 2 of this Ordinance.

The Town of Burns Harbor has the authority to modify, grant exemptions, and/or waive any and all the requirements of this Ordinance and its associated technical standards document. A pre-submittal meeting with the Town of Burns Harbor may be requested by the applicant to discuss the applicability of various provisions of the Ordinance and its associated technical standards document with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the Town of Burns Harbor that may be based on the review of more detailed information and plans.

(c) FINDINGS

The Town of Burns Harbor finds that:

1. Water bodies, roadways, structures, and other property within the Town of Burns Harbor or its planning jurisdiction boundary are at times subjected to flooding;
2. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;
3. Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

4. Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;
5. Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the Town of Burns Harbor will, absent reasonable regulation and control, adversely affect the Town of Burns Harbor's water bodies and water resources;
6. Pollutant contributions from illicit discharges within the Town of Burns Harbor will, absent reasonable regulation, monitoring, and enforcement, adversely affect the Town of Burns Harbor's water bodies and water resources;
7. Stormwater runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;
8. Adopting the standards, criteria, and procedures contained and referenced in this Ordinance and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges;
9. Adopting this Ordinance is necessary for the preservation of public health, safety, and welfare, for the conservation of natural resources, and for compliance with State and Federal regulations.

(d) PURPOSE

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Burns Harbor through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within the Town of Burns Harbor. This Ordinance establishes methods for managing the quantity and quality of stormwater entering into the storm drain system. The objectives of this Ordinance are:

- i. To reduce the hazard to public health and safety caused by excessive stormwater runoff.
- ii. To regulate the contribution of pollutants to the storm drain system from construction site runoff.
- iii. To regulate the contribution of pollutants to the storm drain system from runoff from new development and re-development.
- iv. To prohibit illicit discharges into the storm drain system.
- v. To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

(e) ABBREVIATIONS AND DEFINITIONS

For the purpose of this Ordinance, the abbreviations and definitions provided in Appendix A shall apply.

(f) RESPONSIBILITY FOR ADMINISTRATION

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The Town of Burns Harbor shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Town of Burns Harbor to qualified persons or entities acting in the beneficial interest of or in the employ of the Town of Burns Harbor.

(g) INTERPRETATION

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in Appendix A, shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Ordinance, but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

(h) SEVERABILITY

The provisions of this Ordinance are hereby declared severable, and if any court of competent jurisdiction should declare any part or provision of this Ordinance invalid or unenforceable, such invalidity or unenforceability shall not affect any other part or provision of this Ordinance.

(i) DISCLAIMER OF LIABILITY

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by man-made or natural causes. This Ordinance does not imply that land uses permitted will be free from stormwater damage. This Ordinance shall not create liability on the part of the Town of Burns Harbor or any officer, representative, or employee thereof, for any damage that may result from reliance on this Ordinance or on any administrative decision lawfully made there under.

The words “approve” and “accept”, and their common derivations as used in this Ordinance in relation to plans, reports, calculations, and permits shall mean that Town of Burns Harbor has reviewed the material produced and submitted by the applicant or his/her agents for general compliance with this Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual, and that such compliance would qualify the applicant to receive a stormwater management approval or permit. Such an “approval” or “acceptance” is based on the assumption that the project engineer has followed all appropriate engineering methods in the design. Any stormwater quantity (drainage) or water quality problems associated with the project caused by poor construction by the contractor and/or poor engineering design or judgment, either on-site or off-site, are the responsibility of the developer and the project engineer.

Consideration, design, construction, and maintenance of safety measures for proposed or existing stormwater facilities shall be the responsibility of the developer, applicant, and/or the property owner. Town of Burns Harbor and its officials and representatives shall not be responsible for maintenance nor liability for any accidents.

Sec. 4-9-2. PROHIBITED DISCHARGES AND CONNECTIONS.

(a) APPLICABILITY AND EXEMPTIONS

This section shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of the Town of Burns Harbor, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.

Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this section unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are not included in this exemption.

Any non-stormwater discharge permitted under an NPDES permit, waiver (unless the waiver is solely based on point source considerations, still allowing non-point source discharge of a pollutant), or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, 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 the subject discharge to the storm drain system, is also exempted from this section.

(b) PROHIBITED DISCHARGES AND CONNECTIONS

No person shall discharge to a MS4 conveyance, watercourse, or waterbody, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater, through the use of best management practices (BMP's).

Concrete washout material must be properly contained within an appropriate practice and any waste material properly disposed of.

The Town of Burns Harbor is authorized to require dischargers to implement pollution prevention measures, utilizing BMP's necessary to prevent or reduce the discharge of pollutants into the Town of Burns Harbor's stormwater drainage system.

(c) EXEMPTED DISCHARGES AND CONNECTIONS

Notwithstanding other requirements in this Ordinance, the following categories of non-stormwater discharges or flows are exempted from the requirements of this section:

- i. Water line flushing;
- ii. Landscape irrigation;
- iii. Diverted streamflows;

- iv. Rising ground waters;
- v. Uncontaminated groundwater infiltration;
- vi. Uncontaminated pumped ground water;
- vii. Discharges from potable water sources;
- viii. Foundation drains;
- ix. Air conditioning condensation;
- x. Irrigation water;
- xi. Springs;
- xii. Water from crawl space pumps;
- xiii. Footing drains;
- xiv. Lawn watering;
- xv. Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
- xvi. Flows from riparian habitats and wetlands;
- xvii. Dechlorinated swimming pool discharges not including discharges from saltwater swimming pools;
- xviii. Street wash water;
- xix. Discharges from emergency firefighting activities;
- xx. Naturally introduced detritus (e.g. leaves and twigs);
- xxi. Routine external building washdown water that does not use detergents.

(d) STORAGE OF HAZARDOUS OR TOXIC MATERIAL

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

(e) PRIVATE PROPERTY MAINTENANCE DUTIES

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

(f) SPILL REPORTING

Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the Town of Burns Harbor concerning the discharge. A written report concerning the discharge shall be filed with the Town

of Burns Harbor and IDEM, by the dischargers, within five (5) days. The written report shall specify:

- i. The composition of the discharge and the cause thereof;
- ii. The date, time, and estimated volume of the discharge;
- iii. All measures taken to clean up the accidental discharge, and all measures proposed to be taken to prevent any recurrence;
- iv. The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relieve discharger from notifying other entities as required by state or federal regulations.

(g) INSPECTIONS AND MONITORING

1. Storm Drainage System

The Town of Burns Harbor has the authority to periodically inspect the portion of the storm drainage system under the Town of Burns Harbor's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

2. Potential Polluters

If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the Town of Burns Harbor may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the Town of Burns Harbor's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Town of Burns Harbor or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Identified illicit connections or discharges shall be subject to enforcement action as described in Section 7 of this Ordinance.

3. New Development and Re-Development

Following the final completion of construction and the receipt of as-built drawings by the Town of Burns Harbor, the Town of Burns Harbor has the authority to inspect new development and re-development sites to verify that all on-site stormwater conveyances and connections to the storm drainage system are in compliance with this section.

Sec. 4-9-3. STORMWATER QUANTITY MANAGEMENT.

(a) APPLICABILITY AND EXEMPTIONS

The storage and controlled release of excess stormwater runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the Town of Burns Harbor. The Town of Burns Harbor, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization. Additional potential exemptions regarding the detention requirements are provided under Sub-section (b).

(b) POLICY ON STORMWATER QUANTITY MANAGEMENT

It is recognized that most streams and drainage channels serving the Town of Burns Harbor do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess stormwater runoff as well as compensation for loss of floodplain storage shall be required for all developments and redevelopments (as defined in Appendix A) located within the Town of Burns Harbor. Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, policy on dams and levees, policy on Fluvial Erosion Hazard corridors, and compensatory floodplain storage rates are detailed in the Town of Burns Harbor Stormwater Technical Standards.

Due to unknowns regarding the future development patterns and the associated proposed stormwater quantity management systems within a watershed, it is the policy of the Town of Burns Harbor to discourage direct release of runoff from a new development or redevelopment without providing detention. However, in rare circumstances, where a comprehensive watershed-wide hydrologic study or watershed plan of a major stream (not a “beat the peak” analysis) adopted by the Town of Burns Harbor substantiates the benefits of (or allows for) direct release for a proposed development located adjacent to a major stream, the detention requirements set in this Ordinance may be waived. Other special circumstances when such a waiver may be considered by Town of Burns Harbor include situations where the design of a regional pond has already taken into account the provision of direct release in certain areas in the watershed.

(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the Town of Burns

Harbor Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.

(d) DRAINAGE EASEMENT REQUIREMENTS

All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way shall be placed within a drainage easement. There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise accepted by Town of Burns Harbor. Additional easement requirements along stormwater conveyance systems are contained in the Town of Burns Harbor Stormwater Technical Standards Manual. All drainage improvements performed relative to the conveyance of stormwater runoff and the perpetual maintenance thereof, within the latter easements, shall be the responsibility of the owner or homeowner association.

Any outlet to, crossing, and/or encroachment of a county Regulated Drainage Easement requires application and acceptance from the County Drainage Board in accordance with the Indiana Drainage Code.”

(e) PLACEMENT OF UTILITIES

No utility company may disturb existing storm drainage facilities without the consent of the Town of Burns Harbor staff, whose decision may be appealed to the Town of Burns Harbor Storm Water Board. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in Section 7 of this ordinance.

(f) STRUCTURES NEAR COUNTY REGULATED DRAINS

For regulated drains not located in platted subdivisions, unless otherwise accepted by the Porter County Drainage Board, no permanent structure (including fences) shall be erected within seventy-five feet measured at right angles from a) the existing top edge of each bank of a regulated open drain, as determined by the Porter County Drainage Board; or b) the center line of a piped Regulated Drain. The Indiana Drainage Code may be consulted for further details.

(g) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

After the approval of the Stormwater Management Permit by the Town of Burns Harbor and the commencement of construction activities, the Town of Burns Harbor has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this section, the Stormwater Technical Standards Manual, Design and Construction Standards, and the terms and conditions of the approved permit.

The Town of Burns Harbor also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in

addition to any prescribed Operation & Maintenance procedures, and shall not be subsequently altered, revised or replaced except as approved by the Town of Burns Harbor. If deficiencies are found during the inspection, the owner of the facility will be notified by the Town of Burns Harbor and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Town of Burns Harbor will undertake the work and collect from the owner using lien rights if necessary.

Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved.

Stormwater conveyance facilities may be donated to the Town of Burns Harbor or other unit of government designated by the Town of Burns Harbor, for ownership and permanent maintenance providing the Town of Burns Harbor or other governmental unit is willing to accept responsibility.

Sec. 4-9-4. STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES.

(a) APPLICABILITY AND EXEMPTIONS

The Town of Burns Harbor will require a Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of a project's construction plans and specifications. Any project located within the corporate boundaries of the Town of Burns Harbor that includes clearing, grading, excavation or other land disturbing activities resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this section. This includes both new development and re-development. This section also applies to disturbances of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area. Section 4 (c) provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of IDEM's CSGP shall also be in compliance with the requirements contained in that permit.

The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion and sediment control measures:

- i. Landfills that have been issued a certification of closure under 329 IAC 10.
- ii. Coal mining activities permitted under IC 14-34.
- iii. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

For an individual lot where land disturbance is expected to be one (1) acre or more, the

individual lot owner must complete their own notice of intent letter, apply for a stormwater permit from the Town of Burns Harbor, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with Section 6 of this Ordinance, regardless of whether the individual lot is part of a larger permitted project site. For an individual lot where land disturbance is 10,000 square feet or more but less than one (1) acre, an Individual Lot Plot Plan Permit application is required prior to receiving a building permit. Details of the permitting process are contained in Section 6.

An individual lot located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater permit approved for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, the builders of these individual lots are required to submit Individual Lot Plot Plan Permit application along with a SWPPP for that individual lot prior to receiving a building permit. Details of the permitting process for individual lots and parcels are contained in Section 6 and additional requirements for individual lots may be found in the Town of Burns Harbor Stormwater Technical Standards Manual.

It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Town of Burns Harbor in accordance with Section 6 of this Ordinance. It will be the responsibility of the project site owner to ensure compliance with this Ordinance during the construction activity and implementation of the construction plan, and to notify the Town of Burns Harbor upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the Town of Burns Harbor. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this section and this Ordinance.

(b) POLICY ON STORMWATER POLLUTION PREVENTION

Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling.

For land disturbance of one (1) acre or more, the developer must submit to the Town of Burns Harbor, a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. The SWPPP and the project management log must be retained for at least three (3) years from the date the project permit is terminated. For land disturbances totaling 10,000 square feet or more but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the Town of Burns Harbor Stormwater Technical Standards Manual must be designed and shown on the plans.

The required IDEM general and implementation requirements that apply to all land-disturbing activities are contained in the Town of Burns Harbor Stormwater Technical Standards Manual.

(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

In calculating the total area of land disturbance, for the purposes of determining applicability of this section to a project, the following guidelines should be used:

- i. Off-site construction activities that provide services (for example, road extensions, sewer, water, offsite stockpiles, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.
- ii. To determine if multi-lot project sites are regulated by this section, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:
 1. For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.
 2. For a single-family residential project site where the lots are less than one half (0.5) acre in size, the total lot must be calculated as being disturbed.
 3. To calculate lot disturbance on all other types of project sites, such as industrial and commercial projects project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the Indiana Stormwater Quality Manual, the Town of Burns Harbor Stormwater Technical Standards Manual, and the product guidance/specifications of the manufacturer. The methods and procedures included in these two references are in keeping with the above stated policy and meet the requirements of the IDEM's CSGP. A Copy of the Indiana Stormwater Quality Manual may be obtained online through IDEM.

The design requirements that would apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP are contained in the Town of Burns Harbor Stormwater Technical Standards Manual.

(d) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

Following approval of the Stormwater Management Permit or Individual Lot Plot Plan Permit by the Town of Burns Harbor and commencement of construction activities, the Town of Burns Harbor has the authority to conduct inspections of the site to ensure full compliance with the provisions of this section, the approved Stormwater Pollution Prevention Plan, the Indiana Stormwater Quality Manual, and the terms and conditions of the approved permit.

A self-monitoring program (SMP) must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. A trained individual, acceptable to the Town of Burns Harbor, shall monitor and manage project construction and stormwater activities. Details regarding the required monitoring activities are contained in the Town of Burns Harbor Stormwater Technical Standards Manual.

The stormwater pollution prevention plan shall serve as a guideline for stormwater quality but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this section, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the trained individual for modified stormwater quality measures should be implemented.

A project management log must be maintained at the project site or in the possession of on-site individuals associated with the management and operations of the construction activities. Details regarding requirements related to the project management log are contained in the Town of Burns Harbor Stormwater Technical Standards Manual.

Sec. 4-9-5. STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION.

(a) APPLICABILITY AND EXEMPTIONS

In addition to the requirements of Section 4, the stormwater pollution prevention plan, which is to be submitted to the Town of Burns Harbor as part of the Stormwater Management Permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the corporate boundaries of the Town of Burns Harbor that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this section. This includes both new development and re-development, and disturbances of land less than 10,000 square feet of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area. In addition, regardless of the amount of disturbance, the Town of Burns Harbor reserves the right to require pre-treatment BMPs for proposed hot spot developments in accordance with provisions contained in the Town of Burns Harbor Stormwater Technical Standards Manual.

The requirements under this section do not apply to the following activities:

- i. construction activities associated with a single-family residential dwelling disturbing less than one (1) acre, when the dwelling is not part of a larger common plan of development or sale; or individual building lots within a larger permitted project.

The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

- i. Landfills that have been issued a certification of closure under 329 IAC 10.
- ii. Coal mining activities permitted under IC 14-34.
- iii. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Town of Burns Harbor in accordance with Section 6 of this Ordinance. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMP's (especially, the protection of post-stormwater BMPs during construction phase) in compliance with this Ordinance and with the approved Stormwater Management Permit, and to notify the Town of Burns Harbor upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the Town of Burns Harbor. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this section and this Ordinance.

(b) POLICY ON STORMWATER QUALITY MANAGEMENT

It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues within the corporate boundaries of the Town of Burns Harbor, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. Through the use of appropriate Best Management Practices (BMPs), to treat the Water Quality Volume (WQV) or the Water Quality Flow (WQF) stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed.

It is also recognized that another major source of pollution in many Indiana streams, including those within the corporate boundaries of the Town of Burns Harbor, is the streambank erosion associated with urbanizing watersheds. Stream channels develop their shape in response to the volume and rate of runoff that they receive from their contributing watersheds. Research has shown that in hydrologically stable watersheds, the stream flow responsible for most of the shaping of the channel (called the bankfull flow) occurs between every one to two years. When land is developed, the volume and rate of runoff from that land increases for these comparatively small flooding events that are not normally addressed by the detention practices and the stream channel will adapt by changing its shape. As the stream channel works to reach a new stable shape, excess erosion occurs. As new development and re-development continues within the corporate boundaries of the Town of Burns Harbor, measures must be taken to minimize the impact of such development or re-development on streambank erosion.

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Through the use of appropriate Best Management Practices (BMPs) to retain and/or detain and slowly release the Channel Protection Volume (CPV), the volume and rate of runoff for channel forming flows will be reduced in an attempt to minimize increased streambank erosion in the receiving streams and channels.

The project site owner must submit to the Town of Burns Harbor a Stormwater Pollution Prevention Plan (SWPPP) that shows placement of appropriate BMP(s) from a pre-approved list of BMP's specified in the Town of Burns Harbor Stormwater Technical Standards Manual. The SWPPP submittal shall include an Operation and Maintenance Manual for all post-construction BMP(s) included in the project and a notarized Maintenance Agreement, consistent with the sample agreement provided in the Town of Burns Harbor Stormwater Technical Standards Manual, providing for the long-term maintenance of those BMPs, both of which shall be recorded with the deed for the property on which the project is located. The noted BMP(s) must be designed, constructed, and maintained according to guidelines provided or referenced in the Town of Burns Harbor Stormwater Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to guidelines provided in the Town of Burns Harbor Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMP's are provided in the Town of Burns Harbor Stormwater Technical Standards Manual.

Gasoline outlets and refueling areas must install appropriate practices (as noted under "Hot Spots" provision in the Technical Standards) to reduce lead, copper, zinc, and polyaromatic hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility.

Discharges from new development and redevelopment sites will not be allowed directly into karst features without pre-treatment.

(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

Calculation of land disturbance should follow the guidelines discussed in Section 3(c).

The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in the Town of Burns Harbor Stormwater Technical Standards Manual. The methods and procedures included in the referenced Standards is in keeping with the above stated policy and meet or exceed the requirements of IDEM's MS4 GP.

(d) EASEMENT REQUIREMENTS

All stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring, inspection, and general maintenance activities,

adequate easement width, as detailed in the Town of Burns Harbor Stormwater Technical Standards Manual, beyond the actual footprint of the stormwater quality management facility as well as a 20-foot wide access easement from a public right-of-way to each BMP shall be provided.

(e) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

After the approval of the Stormwater Management Permit by the Town of Burns Harbor and the commencement of construction activities, the Town of Burns Harbor has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this section, the approved Stormwater Pollution Prevention Plan, the Town of Burns Harbor Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.

Stormwater quality facilities shall be maintained in good condition, in accordance with the Operation and Maintenance procedures and schedules listed in the Town of Burns Harbor Stormwater Technical Standards Manual, in addition to the designed and approved performance specifications for the facilities and shall not be subsequently altered, revised, or replaced except as approved by the Town of Burns Harbor.

Details regarding the required of stormwater BMP Maintenance Agreement, O&M Maintenance Manual, and a Maintenance Escrow account and their transfer to other parties or subsequent owners prior to release of the maintenance bond discussed in Section 6 of this Ordinance is provided in the Town of Burns Harbor Stormwater Technical Standards Manual.

The Town of Burns Harbor also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quality facilities. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report.

Sec. 4-9-6. PERMIT REQUIREMENTS AND PROCEDURES.

(a) CONCEPTUAL DRAINAGE PLAN REVIEW

In order to gain an understanding of the drainage requirements for a specific project, a developer may submit conceptual drainage plans and calculations for review by the Town of Burns Harbor. The direction provided by the Town of Burns Harbor during such a review is based on preliminary data and shall not be construed as an acceptance or binding on either party. The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

- i. Two (2) complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems (plan sheets must be larger than 11" by 17", but not to exceed 24" by 36").
- ii. General description of the existing and proposed drainage systems in narrative

- form.
- iii. Map showing on-site 100-year floodplain and floodway (please note if none exists).
- iv. Map showing all wetlands, lakes, and ponds on or adjacent to the site.
- v. Watershed Boundaries with USGS Contours or best information possible.
- vi. Two (2) copies of drainage calculations detailing existing and proposed discharges from the site
- vii. Existing watercourse or regulated drains.

(b) PERMIT PROCEDURES

This section applies to all development, or re-development of land, that results in land disturbance of one (1) acre or more. Individual lots with land disturbance less than one (1) acre shall refer to Sections 4 and 5 and subsection (d) below for plan review requirements and procedures. Figure 1 is a flowchart summarizing the plan review/permit approval/project termination compliance process for land disturbance of one (1) acre or more and can be found at the end of this section.

1. General Procedures

The project site owner shall submit an application for a Stormwater Management Permit to the Town of Burns Harbor. The application will include a completed application checklist, construction plan sheets, a stormwater drainage technical report, a stormwater pollution prevention plan, and any other necessary support information. Specific information to be included in the application can be found in Subsection (c) below. Four copies of each application must be submitted to the Town of Burns Harbor. The Town of Burns Harbor may, at its discretion, require one or more copies be submitted to other entities deemed appropriate by the Town of Burns Harbor. Additionally, a digital copy of the construction plans is required in a format accepted by the Town of Burns Harbor.

After the Town of Burns Harbor's receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, it will be reviewed in detail by the Town of Burns Harbor and/or its plan review consultant(s). Once all comments have been received and review completed, the Town of Burns Harbor will either approve the project, request modifications or deny the project. If the applicant does not agree with or accept the review findings and wishes to seek an appeal, the Town of Burns Harbor will place the project on the agenda of the next regularly scheduled meeting of the Town of Burns Harbor Permitting Board, provided the agenda for the meeting has not yet been advertised or published. If time for notification does not allow, the project shall be placed on the following regularly scheduled meeting of the Town of Burns Harbor Permitting Board. If the project must go through a scheduled meeting, the Town of Burns Harbor will furnish the applicant a complete list of comments and objections to the plans and accompanying data prior to the scheduled meeting. After the scheduled meeting, the Town of Burns Harbor will either issue a permit, request modifications to the construction plans, or deny the project.

The project site owner must notify the Town of Burns Harbor and IDEM before beginning construction. Notification to the Town of Burns Harbor shall be in the form of an email while the notification to IDEM for sites 1-acre or larger shall be in the form of an online IDEM NOI submittal. Once a permit has been issued and the pending construction notifications submitted to the Town of Burns Harbor and IDEM before the beginning of construction, construction may commence. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Ordinance and the terms and conditions of the approved permit. Upon completion of construction activities, a Certification of Completion and Compliance and as-built plans must be submitted to the Town of Burns Harbor. Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the Town of Burns Harbor, requesting a termination inspection. The Town of Burns Harbor, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of Town of Burns Harbor's stormwater Ordinance and its technical standards and that the terms and conditions of the permit. Once the applicant receives a signed copy of the Termination Inspection Checklist confirming compliance, they must forward a copy to IDEM along with the required IDEM NOT form. Permits issued by the Town of Burns Harbor under this scenario will expire 5 years from the date of issuance. If construction is not completed within 5 years, an updated permit application must be submitted to the Town of Burns Harbor and an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.

2. SWPPP Review Time Limits

Pursuant to IC 13-18-27, an MS4-designated entity or other review authority such as SWCD must make a preliminary determination as to whether the construction plan associated with SWPPP is substantially complete before the end of the tenth (10th) working day (for sites with less than 5 acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the fourteenth (14th) working day (for sites with 5 acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Depending on the outcome of the SWPPP review, the following scenarios may play out:

- a. No SWPPP review notification received: If the review authority does not notify the applicant of its preliminary determination as to whether the construction plan is substantially complete within either 10 or 14 days as noted above, the project site owner may submit a notice of intent letter to IDEM including the information required this Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.
- b. SWPPP not substantially complete: If the review authority notifies the applicant that the construction plan is not substantially complete, the project site owner may not submit a notice of intent letter to IDEM until the review authority makes a conclusive favorable determination concerning the construction plan under this

Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual.

- c. Unfavorable SWPPP: If the review authority notifies the applicant that the construction plan is substantially complete; and makes a conclusive unfavorable determination concerning the construction plan under this Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual, the project site owner may not submit a notice of intent letter to IDEM.
- d. Preliminary SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project. The plan review authority reserves the right to perform a comprehensive review at a later date, and revisions may be required at that time.
- e. Conditional SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a conditional review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project provided that the requirements included in the conditional review are fulfilled.
- f. Favorable SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the Town of Burns Harbor Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.

Note that the above time limits only apply to the SWPPP portion of the overall stormwater permit submittal and does not affect any official or non-official permit review timelines set by the entity for other aspects of the stormwater permit application.

(c) INFORMATION REQUIREMENTS

Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in the “Applicability and Exemptions” Sections of Sections 2 through 5. If a project or activity is exempt from any or all requirements of this ordinance, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than 1 acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under Section (d).

The different elements of a permit submittal include an application checklist, construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana who also meets the definition of a Trained Individual found in Appendix A.

1. Application Checklist

As part of the Town of Burns Harbor Stormwater Management Permit application package, the application checklist provided in the Town of Burns Harbor Stormwater Technical Standards Manual must be completed by the applicant and provided along with other required supporting material.

2. Construction Plans

Construction plan sheets (larger than 11" by 17", but not to exceed 24" by 36" in size) and an accompanying narrative report shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans must include items listed in the application checklist provided in the Town of Burns Harbor Stormwater Technical Standards Manual.

3. Stormwater Drainage Technical Report

A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include items listed in the application checklist provided in the Town of Burns Harbor Stormwater Technical Standards Manual.

4. Stormwater Pollution Prevention Plan for Construction Sites

For sites with total disturbance of one (1) acre or more, a stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Ordinance. The SWPPP and construction plans must include the items listed in the application checklist provided in the Town of Burns Harbor Stormwater Technical Standards Manual. For land disturbances totaling 10,000 square feet or more of land area but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the Town of Burns Harbor Technical

Standards must be designed and shown on the plans.

5. Post-Construction Stormwater Pollution Prevention Plan

For sites with total land disturbance of 10,000 square feet or more of total land area, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the Town of Burns Harbor Stormwater Technical Standards Manual. The post-construction stormwater pollution prevention plan must include items listed in the application checklist provided in the Town of Burns Harbor Stormwater Technical Standards Manual.

(d) REVIEW OF INDIVIDUAL LOTS

For all individual lots disturbing 10,000 square feet or more but less than one (1) acre, a formal review and issuance of an Individual Lot Plot Plan Permit will be required before a building permit can be issued. Similarly, for individual lots disturbing less than 10,000 square feet of total land area, developed within a larger permitted project, a formal review and issuance of an Individual Lot Plot Plan Permit will be required before a building permit can be issued. All stormwater management measures necessary to comply with this Ordinance must be implemented in accordance with permitted plan for the larger project.

The following information must be submitted to the Town of Burns Harbor, for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of an Individual Lot Plot Plan Permit that must be obtained prior to the issuance of a building permit.

- I. A site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales.
- II. Erosion and sediment control plan that, at a minimum, includes the following measures:
 1. Installation and maintenance of a stable construction site access.
 2. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
 3. Minimization of sediment discharge and tracking from the lot.
 4. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.
 5. Implementation of concrete or cementitious wash water practices that securely contain and allow for the proper disposal of concrete or cementitious wash water.
 6. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
 7. Self-monitoring program including plan and procedures.

Certification of Compliance stating that the individual lot plan is consistent with the Stormwater Management Permit, as approved by the Town of Burns Harbor, for the larger project (if the individual lot is part of a larger permitted project).

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Name, address, telephone number, and list of qualifications of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.

The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.

(e) CHANGES TO PLANS

Any changes or deviations in the detailed plans and specifications after approval of the applicable Stormwater Management Permit shall be filed with, and accepted by, the Town of Burns Harbor prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.

(f) FEE STRUCTURE

1. FEE AMOUNT

As a condition of the submittal and the review of development plans by the Town of Burns Harbor, the applicant shall agree to pay the Town of Burns Harbor the applicable fee, as set by the Town of Burns Harbor with respect to the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data, as well as prepaid inspection fees. The Permit Application Fees include the Review Fee, the Application Fee, Erosion Control Fee and Post Construction Inspection Fee. Check(s) with the applicable fee shall be submitted with the application(s) in the following amounts: \$500 for each plan review and \$350 for each inspection. (321-23)

2. TIME OF PAYMENT

After the meeting at which the Town of Burns Harbor is scheduled to consider acceptance of the applicant's final stormwater management plan, the Town of Burns Harbor will furnish a written statement to the applicant specifying the total amount due the Town of Burns Harbor in connection with the review of the applicant's submittals, plans and accompanying information and data, including the amount required to be paid by applicant for review and pre-paid inspection fees.

As a condition of acceptance of final drainage plans by the Town of Burns Harbor, applicant shall pay to the Town of Burns Harbor the sum set forth in said statement. The Town of Burns Harbor may issue such a billing statement before the project advances to the final acceptance stage, and such payment is due by applicant upon receipt of said billing statement regardless of whether the project is advanced to the final acceptance stage.

The Town of Burns Harbor shall have the right to not accept the drainage improvements or to not approve the advancement of any project for which the applicable fees have not been paid.

3. METHOD OF PAYMENT

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Fees shall be paid by one of the following methods:

- Check
- Certified Check
- Cashier's Check
- Money Order

All checks shall be made payable to the: Town of Burns Harbor, 1240 N. Boo Road,
Burns Harbor IN 46304

4. REFUND OF PAYMENT

Fees are refundable only if the Town of Burns Harbor determines that compliance by the development or project to this Ordinance is not necessary.

5. FEE SCHEDULE

Stormwater Permit Application and Inspection Fees will be in accordance with the fee schedule set by Town of Burns Harbor as a separate resolution.

(g) REQUIRED ASSURANCES

This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the Town of Burns Harbor or retained privately. As a condition of approval and issuance of the permit, the Town of Burns Harbor shall require the applicant to provide assurance in form of an irrevocable letter of credit or a bond when the stormwater management plan has been accepted and before construction begins. Said assurance will guarantee a good faith execution of the stormwater drainage plan, the stormwater pollution prevention plan, the stormwater quality management plan, and any permit conditions. The assurance shall be for an amount equal to 125 percent of the total costs of all stormwater management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a registered engineer or land surveyor. Said costs shall be for the installation and ongoing monitoring and maintenance of erosion control measures and the construction and ongoing monitoring and maintenance of storm drainage infrastructure, detention/retention facilities, and stormwater quality BMP's, as regulated under this Ordinance, until the construction is completed, the site is stabilized, and as-built plans are accepted by the Town of Burns Harbor. Assurances shall be for a minimum of \$5,000. All other performance bonds, maintenance bonds or other assurances required by the Town of Burns Harbor in accordance with any and all other ordinances shall also apply and so be required. Local governmental jurisdictions may require additional performance and/or maintenance assurances. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate stormwater pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.

(h) TERMS AND CONDITIONS OF PERMITS

In granting a Stormwater Management Permit, the Town of Burns Harbor may impose such

terms and conditions as are reasonably necessary to meet the purposes of this Ordinance. The project site owner shall insure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in Section 7.

The project site owner shall inform all general contractor, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the Stormwater Management Permit and the schedule for proposed implementation.

In the event that a project site is determined to impact or discharge to a Sensitive Area or is located in an Impact Drainage Area, the Town of Burns Harbor may require more stringent stormwater quantity and quality measures than detailed in this Ordinance or in the Indiana Stormwater Quality Manual.

1. Determination of Sensitive Areas

Sensitive Areas include highly erodible soils, wetlands, karst areas, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. Any discharge from a stormwater practice that is a Class V injection well shall meet the Indiana groundwater quality standards and registered with US EPA as required by the IDEM. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (COE). The need for the applicant to check for the presence of threatened or endangered species habitat will be determined on a case-by-case basis. Special terms and conditions for development determined to impact or discharge to any Sensitive Area shall be included in the Stormwater Management Permit.

2. Determination of Impact Drainage Areas

The following areas shall be designated as Impact Drainage Areas, unless good reason for not including them is presented to the Town of Burns Harbor.

- i. A floodway or floodplain as designated by the most updated FEMA Code dealing with floodplain regulation and/or by the Best Available Data through IDNR.
- ii. Land within 25 feet of each bank of any ditch within the Town of Burns Harbor's system.
- iii. Land within 15 feet of the centerline of any stormwater infrastructure or enclosed conduit within the Town of Burns Harbor's system.
- iv. Land within 75 feet of each bank of a county open regulated drain.
- v. Land within 50 feet of a natural drainageway.
- vi. Land within 75 feet of the centerline of any tiled regulated drain.
- vii. Land within the Fluvial Erosion Hazard (FEH) corridor.

The Town of Burns Harbor or Town of Burns Harbor Engineer is authorized, but is not required, to classify certain geographical areas as Impact Drainage Areas. In determining Impact Drainage Areas, the Town of Burns Harbor may consider such factors as topography, soil type, capacity of existing drains, and distance from adequate

drainage facility.

Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an Impact Drainage Area by the Town of Burns Harbor. Special terms and conditions for development within any Impact Drainage Area shall be included in the Stormwater Management Permit.

3. Determination of Designated Drainage Areas Served by Regional Facilities

The Town of Burns Harbor is authorized, but is not required, to classify certain geographical areas as Designated Drainage Areas that are or will be served by regional facilities, such as a regional pond. In such cases, an Infrastructure Development Fee (IDF) rate may be established for the Designated Drainage Area. The basis for determining such a fee for a proposed development or re-development within a Designated Drainage Area will be as detailed in the Town of Burns Harbor Stormwater Technical Standards Manual.

(i) CERTIFICATION OF AS-BUILT PLANS

This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the Town of Burns Harbor or retained privately. After completion of construction of the project and before the release of required performance assurances referenced in Section (g) above, a professionally prepared and certified 'as-built' set of plans (record drawings) shall be submitted to the Town of Burns Harbor for review. These as-built plans/record drawings must be prepared and certified by the Engineer of Record, i.e., the company/engineer who originally prepared the construction plans. Additionally, a digital copy of the 'as-built' plans (record drawings) as well as finalized digital versions of all analyses, models, manuals, and reports that are consistent with the as-built conditions is required in a format acceptable to the Town of Burns Harbor. These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:

1. Pipe size and pipe material
2. Invert elevations
3. Top rim elevations
4. Elevation of the emergency overflow (spillway) for ponds
5. Grades along the emergency flood routing path(s)
6. Pipe structure lengths
7. BMP types, dimensions, and boundaries/easements
8. "As-planted" plans for BMP's, as applicable
9. Data and calculations showing detention basin storage volume
10. Data and calculations showing BMP treatment capacity
11. Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the Stormwater Management Permit as approved by the Town of Burns Harbor. (See certificate in the Stormwater Technical Standards Manual.

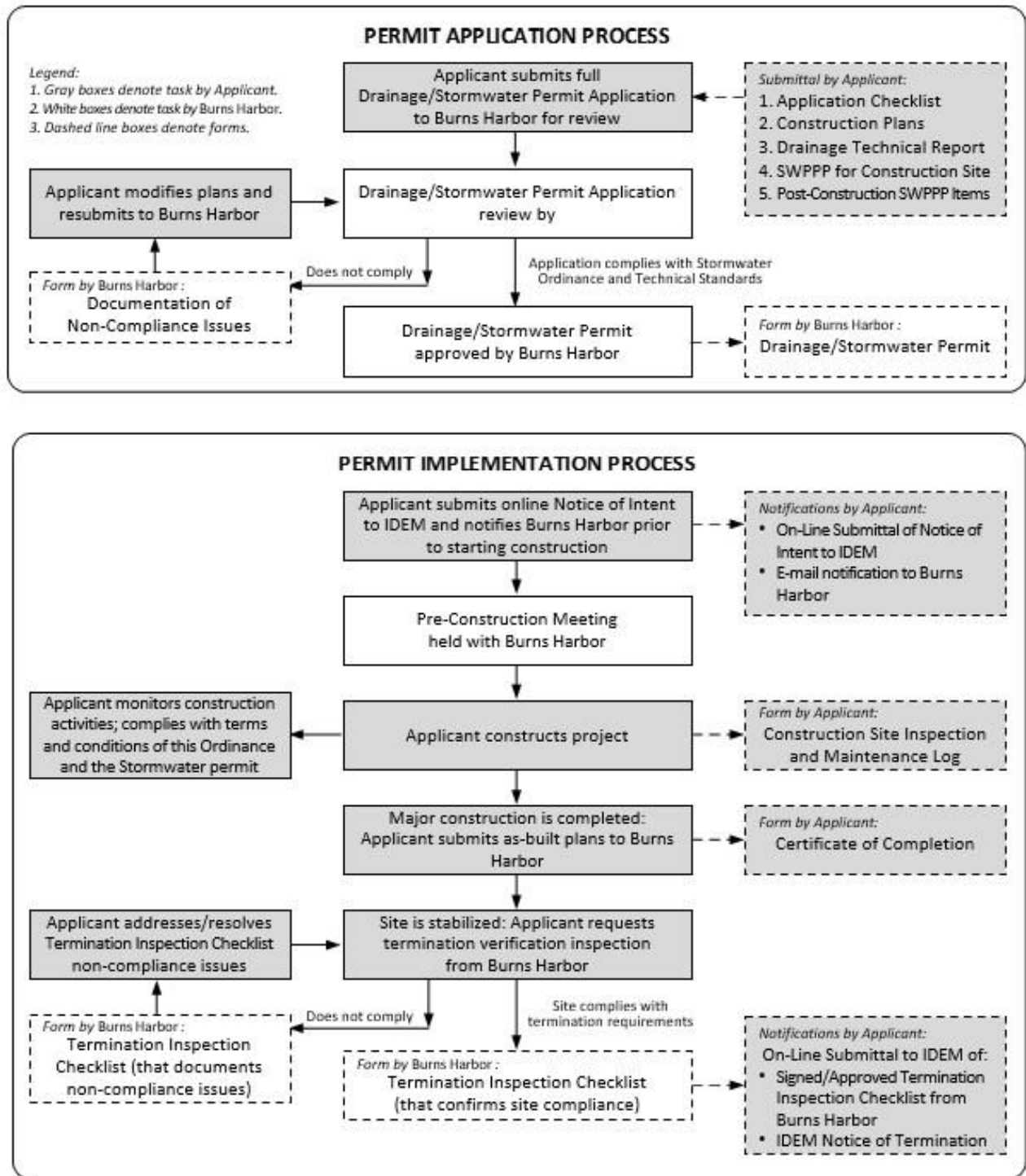
(j) POST-PROJECT MAINTENANCE BOND AND VERIFICATIONS

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In addition to as-built plans and the certification of completion and compliance, following the release of performance assurances, the property owner, developer, or contractor shall be required to file a two-year maintenance bond or other acceptable guarantee with the Town of Burns Harbor in an amount not to exceed twenty five percent (25%) of the cost of the stormwater management system located outside the public road rights-of-way, and in a form satisfactory to the Town of Burns Harbor in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans, and this Ordinance and that any off-site drainage problems that may arise, whether upstream or downstream of such project, will be corrected if such drainage problems are determined by the Town of Burns Harbor to have been caused by the development of such project. The bond or other acceptable guarantee shall be in effect for a period of two years after the date of the release of required performance assurances referenced in Section (g) above. The beneficiary of all maintenance bonds shall be the Town Council of the Town of Burns Harbor.

Additional requirements for transfer of any applicable stormwater BMP Maintenance Agreement, O&M Maintenance Manual, and Maintenance Escrow accounts to subsequent owners prior to release of the maintenance bond is discussed in Section 5 of this ordinance.

Figure 1: Permit Approval and Project Termination Sign-off Process



Sec. 4-9-7. COMPLIANCE AND ENFORCEMENT.

(a) COMPLIANCE WITH THIS ORDINANCE

To secure compliance with the requirements of this Ordinance, violations thereof shall be subject to the enforcement provisions set forth under (b) following. Additionally, compliance with the requirements set forth in the local Zoning Ordinances is also necessary. Compliance with all applicable ordinances of the Town of Burns Harbor as well as with applicable State of Indiana statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available.

1. Definitions

- i. **Violation.** Any action or inaction which violates the provisions of this Ordinance, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this Section. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief, in addition to and separate from the imposition of any of the enforcement actions described below.
- ii. **Compliance.** The act of correcting a violation or violations within the time frame specified by the Town of Burns Harbor.
- iii. **Offense.** Both a violation and a failure of compliance on a particular project constitute an "offense." If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense as further stated in section (b)(3).

2. Warning Notice

When the Town of Burns Harbor finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Town of Burns Harbor may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Town of Burns Harbor to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

(b) ENFORCEMENT OF THIS ORDINANCE

1. Notice of Violation/Citation

If the Town of Burns Harbor determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management design plan, a recorded stormwater management maintenance agreement, or the provisions of this ordinance, it shall issue a written Notice of Violation to such applicant or other responsible person and the owner of the property. Where a person is

engaged in activity covered by this ordinance without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation can be in the form of a citation ticket and/or a written letter that would contain detailed inspection findings, conclusions of law, disposition of warning or fines assessed, stipulated remedial actions as discussed with the responsible party representative, reasonable deadlines for those remedial actions, and the date of re-inspection.

2. Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Town of Burns Harbor may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, public education, etc.

3. Civil Penalties for Violations

Any person who commits an offense under this Ordinance commits a civil infraction subject to a fine not to exceed \$2,500 for each offense, plus costs, damages, and expenses. Each day such violation occurs or continues without a compliance action that is satisfactory to the Town of Burns Harbor may be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

Any person who aids or abets a person in a violation of this Ordinance shall be subject to the penalties provided in this section.

The Town of Burns Harbor has established an Enforcement Response Schedule as noted in the table below that standardizes the approach that the Town of Burns Harbor may, in its discretion, employ in dealing with stormwater regulations offenses subject to this Ordinance and the associated Technical Standards document. When so employed, this Schedule shall apply separately to each offense in the following manner: The first offense is the underlying violation itself, while the subsequent offenses 2 thru 8 (as necessary) are failures of compliance.

Offence #	Type of Response Anticipated
1 st offense	Verbal Telephone Notice, Letter of Violation or Written Warning and Administrative Penalty
2 nd offense	Letter of Violation, Administrative Penalty and/or Site Visit
3 rd offense	Letter of Violation, Administrative Penalty and/or Site Visit
4 th offense	Letter of Violation, Administrative Penalty and/or Site Visit
5 th offense	Agreed Order, Administrative Penalty and/or Site Visit
6 th offense	Administrative Order, Administrative Penalty and/or Site Visit
7 th offense	Compliance Schedule, Administrative Penalty and/or Site Visit

8 th offense	Litigation and Administrative Penalty
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Likewise, in order to standardize the approach that the Town of Burns Harbor may, in its discretion, employ in the imposition of Administrative Penalties, the Town of Burns Harbor has established the following Schedule of Administrative Penalties. Again, the penalty for the 1st offense would apply to the violation itself, while the subsequent penalties 2 through 4 (as necessary) would apply to failures of compliance. In its discretion, the Town of Burns Harbor may impose penalties up to the amount specified in this Schedule.

Offense #	Penalty
1 st offense	\$250.00
2 nd offense	\$500.00
3 rd offense	\$1,000.00
4 th offense	\$2,500.00

4. Stop Work Order

In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this Ordinance or accepted final stormwater management plans, the Town of Burns Harbor may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Town of Burns Harbor to proceed with the work. A Stop Work Order will be posted on the site by the Town of Burns Harbor and it is unlawful for any person to remove the notice or continue any work on the site without permission from the Town of Burns Harbor. The Town of Burns Harbor may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

The Town of Burns Harbor may bring an action under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order against any person who neglects or fails to comply with a stop work order.

For construction projects that are operating under a SWPPP approved by the Town of Burns Harbor, if a Stop Work Order is issued on the grounds that the erosion and sediment control measures included in the construction plan are not adequate, the project site owner must be notified in writing of the inadequacies in the erosion and sediment control measures and the project site owner has seventy-two (72) hours after receiving written notice to resolve the identified inadequacies before the Stop Work Order can take effect.

The seventy-two (72) hour period to resolve identified inadequacies on a construction project does not apply if the Stop Work Order is issued to a construction project where the project site owner is creating a public health hazard or safety hazard.

5. Withhold Certificate of Occupancy

The Town of Burns Harbor may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise satisfied the requirements of this ordinance as determined by the Town of Burns Harbor.

6. Suspension, Revocation, or Modification of Permits

The Town of Burns Harbor may suspend, revoke, or modify any existing permit that the violator may also have been previously granted. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Town of Burns Harbor may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

7. Suspension of Access to the Stormwater Drainage System

i. Emergency Cease and Desist Orders

When the Town of Burns Harbor finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Town of Burns Harbor may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to immediately comply with all ordinance requirements and take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Town of Burns Harbor may commence court action against such person under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order.

The Town of Burns Harbor may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Town of Burns Harbor that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent

endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Town of Burns Harbor within 5 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

ii. Suspension Due to Illicit Discharges in Emergency Situations

The Town of Burns Harbor may, without prior notice, suspend stormwater drainage system 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 stormwater drainage system or waters of the state if the violator fails to comply with a suspension order issued in an emergency, the Town of Burns Harbor may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or waters of the state, or to minimize danger to persons.

iii. Suspension Due to the Detection of Illicit Discharge

Any person discharging to the stormwater drainage system in violation of this ordinance may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The Town of Burns Harbor will notify a violator of the proposed termination of its stormwater drainage system access. The violator may petition the Town of Burns Harbor for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater drainage system access to premises terminated pursuant to this Section, without the prior approval of the Town of Burns Harbor.

(c) COST OF ABATEMENT OF THE VIOLATION

In addition to any other remedies, should any owner fail to comply with the provisions of this ordinance, the Town of Burns Harbor may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the Town of Burns Harbor for all costs of such work.

Nothing herein contained shall prevent the Town of Burns Harbor from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the Town of Burns Harbor's NPDES permit, administrative costs, attorney fees, court costs, and other costs and expenses associated with the enforcement of this Ordinance, including sampling and monitoring expenses.

If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the Town of Burns Harbor or by the expiration of the time in which to file an appeal, the Town of Burns Harbor may commence a court action to recover the costs assessed under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-

12(4).

(d) APPEALS

1. Appeal of Notice of Violation

Any person to whom any provision of this Ordinance has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Burns Harbor Storm Water Board the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Burns Harbor Storm Water Board shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Burns Harbor Storm Water Board may consider the recommendations of the Town of Burns Harbor Staff and the comments of other persons having knowledge of the matter. In considering any such appeal, the Burns Harbor Storm Water Board may grant a variance from the terms of this Ordinance to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- i. The application of the Ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Ordinance; and
- ii. The granting of the relief requested will not substantially prevent the goals and purposes of this Ordinance, nor result in less effective management of stormwater runoff.
- iii. Any person who has appealed a violation to the Burns Harbor Storm Water Board may appeal an adverse decision of the Board to the Porter County court within 60 days of the Board's order, all pursuant to IC 36-1-6-9 (e) & (f).

2. 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 5 days of the decision of the Burns Harbor Storm Water Board, then representatives of the Town of Burns Harbor 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, including the commencing of a court action under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce the order of the Burns Harbor Storm Water Board.

APPENDIX A - Abbreviations and Definitions

(a) ABBREVIATIONS

BMP	Best Management Practice
COE	United States Army Corps of Engineers
CWA	Clean Water Act
EPA	Environmental Protection Agency
GIS	Geographical Information System
IDEM	Indiana Department of Environmental Management
MS4	Municipal Separate Storm Sewer System
NRCS	USDA-Natural Resources Conservation Service
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SWCD	Soil and Water Conservation District
SWPPP	Stormwater Pollution Prevention Plan
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service

(b) DEFINITIONS

Agricultural land disturbing activity. Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile.

Base Flow. Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

Best Management Practices. Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

Buffer Strip. An existing, variable width strip of vegetated land intended to protect water quality and habitat.

Capacity (of a Storm Drainage Facility). The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

Catch Basin. A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

Channel. A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

Compliance. The act of correcting a violation or violations within the time frame specified by the Town of Burns Harbor.

Comprehensive Stormwater Management. A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

Constructed Wetland. A manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

Construction activity. Land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.

Construction site access. A stabilized stone surface at all points of ingress or egress to a project site, for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

Construction Support Activities. Include but are not limited to the following: concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas. Such activities must not support multiple, unrelated projects, be a commercial/industrial operation, or continue to operate beyond the completion of the construction activity for the project it supports.

Contiguous. Adjoining or in actual contact with.

Contour. An imaginary line on the surface of the earth connecting points of the same elevation.

Contour Line. Line on a map which represents a contour or points of equal elevation.

Contractor or subcontractor. An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

Conveyance. Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

Cross Section. A graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

Culvert. A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal or other impediment.

Dechlorinated swimming pool discharge. Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

Design Storm. A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

Detention. Managing stormwater runoff by temporary holding and controlled release.

Detention Basin. A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

Detention Storage. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

Detention Time. The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

Detritus. Dead or decaying organic matter; generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

Developer. Any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

Development. Any man-made change to improved or unimproved real estate including but not limited to:

- i. Construction, reconstruction, or placement of a building or any addition to a building;
- ii. Construction of flood control structures such as levees, dikes, dams or channel improvements;
- iii. Construction or reconstruction of bridges or culverts;
- iv. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than hundred eight (180) days;
- v. Installing utilities, erection of walls, construction of roads, or similar projects;
- vi. Mining, dredging, filling, grading, excavation, or drilling operations;
- vii. Storage of materials; or
- viii. Any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

Discharge. In the context of water quantity provisions, usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day. In the context of water quality provisions, the discharge means any addition of liquids or solids to a water body or a flow conveyance facility

Disposal. The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

Ditch. A man-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

Drain. A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

Drainage. The removal of excess surface water or groundwater from land by means of ditches or subsurface drains. Also see Natural drainage.

Drainage Area. The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area.

Dry Well. A type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

Duration. The time period of a rainfall event.

Environment. The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

Erodibility Index (EI). The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of $(R \times K \times LS) / T$ (from the Universal Soil Loss Equation) and $(C \times I) / T$ (from the Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and

steepness, C is a climatic characterization of windspeed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility Index scores equal to or greater than 8 are considered highly erodible land.

Erosion. The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe different types of water erosion:

- Accelerated erosion--Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.
- Channel erosion --An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
- Gully erosion --An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1-2 ft. to as much as 75-100 ft.
- Rill erosion--An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see Rill).
- Splash erosion--The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.
- Sheet erosion--The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

Erosion and sediment control. A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

Filter Strip. Usually a long, relatively narrow area (usually, 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties.

Floatable. Any solid waste that will float on the surface of the water.

Flood (or Flood Waters). A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Floodplain. The channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 100-year flood. Any normally dry land area that is susceptible to being inundated by water from any natural source. The floodplain includes both the floodway and the floodway fringe districts.

Floodway. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

Floodway Fringe. That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

Fluvial Erosion Hazard (FEH) Corridor. Fluvial Erosion Hazard corridors represent the areas along the streams (including the channel and immediate overbanks areas) that are believed to be subject to stream movement or streambank erosion. These corridors have been delineated for most actively migrating and relatively stationary streams in Indiana through an Indiana Silver Jackets initiative.

Footing Drain. A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

Garbage. All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

Gasoline outlet. An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surface, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

Geographical Information System. A computer system capable of assembling, storing, manipulation, and displaying geographically referenced information. This technology can be used for resource management and development planning.

Grade. (1) The inclination or slope of a channel, canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance. (2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit. (3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

Grading. The cutting and filling of the land surface to a desired slope or elevation.

Grass. A member of the botanical family Graminae, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

Groundwater. Accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

Habitat. The environment in which the life needs of a plant or animal are supplied.

Highly Erodible Land (HEL). Land that has an erodibility index of eight or more.

Hot Spot Development. Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, etc., industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical

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mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

Hydrologic Unit Code. A numeric United States Geologic Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.

Hydrology. The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

Illicit Discharge. Any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs. Illicit discharges include polluted flows from direct and indirect connections to the MS4 conveyance, illegal dumping, and contaminated runoff.

Impaired Waters. Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA Section 303(d) List of Impaired Waters.

Impervious surface. Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

Individual building lot. A single parcel of land within a multi-parcel development.

Individual lot operator. A contractor or subcontractor working on an individual lot.

Individual lot owner. A person who has financial control of construction activities for an individual lot.

Infiltration. Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of runoff through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

Inlet. An opening into a storm drain system for the entrance of surface stormwater runoff, more completely described as a storm drain inlet.

Land-disturbing Activity. Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

Land Surveyor. A person licensed under the laws of the State of Indiana to practice land surveying.

Larger common plan of development or sale. A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a

larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

Lowest Adjacent Grade. The elevation of the lowest grade adjacent to a structure, where the soil meets the foundation around the outside of the structure (including structural members such as basement walkout, patios, decks, porches, support posts or piers, and rim of the window well.

Lowest Floor. Refers to the lowest of the following:

- i. The top of the basement floor;
- ii. The top of the garage floor, if the garage is the lowest level of the building;
- iii. The top of the first floor of buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
- iv. The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 1. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two opening (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
 2. Such enclosed space shall be usable only for the parking of vehicles or building access.

Manhole. Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

Measurable storm event. A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

Mulch. A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover, and minimizes temperature fluctuations.

Municipal Separate Storm Sewers. An MS4 meets all the following criteria: (1) is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity; (2) discharges to waters of the U.S.; (3) is designed or used for collecting or conveying stormwater; (4) is not a combined sewer; and, (5) is not part of a Publicly Owned Treatment Works (POTW).

National Pollutant Discharge Elimination System. A permit developed by the U.S. EPA through the Clean Water Act. In Indiana, the permitting process has been delegated to IDEM. This permit covers aspects of municipal stormwater quality.

Natural Drainage. The flow patterns of stormwater runoff over the land in its pre-development state.

Nutrient(s). (1) A substance necessary for the growth and reproduction of organisms. (2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

Offense. Both a violation and a failure of compliance on a particular project. If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate Offense.

Open Drain. A natural watercourse or constructed open channel that conveys drainage water.

Open Space. Any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

Outfall. The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

Outlet. The point of water disposal from a stream, river, lake, tidewater, or artificial drain.

Peak Discharge (or Peak Flow). The maximum instantaneous flow from a given storm condition at a specific location.

Percolation. The movement of water through soil.

Permanent stabilization. The establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

Pervious. Allowing movement of water.

Point Source. Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or maybe discharged (P.L. 92-500, Section 502[14]).

Porous pavement. A type of infiltration practice to improve the quality and reduce the quantity of stormwater runoff via the use of manmade, pervious pavement which allows runoff to percolate through the pavement and into underlying soils

Professional Engineer. A person licensed under the laws of the State of Indiana to practice professional engineering.

Project site. The entire area on which construction activity is to be performed.

Project site owner. The person required to submit a stormwater permit application and required to comply with the terms of this ordinance, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

Rain garden. A vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

Receiving Stream, Receiving Channel, or Receiving Water. The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

Recharge. Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

Redevelopment. Development occurring on a previously developed site.

Refueling area. An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

Regional Pond. A detention/retention basin sized to detain/retain the runoff from the entire watershed, on-site and off-site, tributary to the pond's outlet.

Regulatory Flood. The discharge or elevation associated with the 100-year flood as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The "regulatory flood" is also known as the "base flood".

Regulatory Floodway. See Floodway.

Release Rate. The amount of stormwater release from a stormwater control facility per unit of time.

Reservoir. A natural or artificially created pond, lake or other space used for storage, regulation or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

Retention. The storage of stormwater to prevent it from leaving the development site. May be temporary or permanent.

Retention basin. A type of storage practice, that has no positive outlet, used to retain stormwater runoff for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

Return Period. The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a one percent probability of being equaled or exceeded in any one year.

Riparian zone. Of, on, or pertaining to the banks of a stream, river, or pond.

Riparian habitat. A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

Runoff. That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.

Runoff Coefficient. A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drain system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as stormwater runoff.

Sediment. Solid material (both mineral and organic) 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.

Sedimentation. The process that deposits soils, debris and other unconsolidated materials either on the ground surfaces or in bodies of water or watercourses.

Sensitive Water. A waterbody is in need of priority protection or remediation based on its:

- i. Providing habitat for threatened or endangered species,
- ii. Usage as a public water supply intake,
- iii. Relevant community value,
- iv. Usage for full body contact recreation,
- v. exceptional use classification as found in 327 IAC 2-1-11(b),
- vi. Outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

Silvicultural. the practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

- i. Nonpoint activities include source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. Some of these activities (such as stream crossing for roads) may involve the placement of dredged or fill material which may require a CWA section 404 permit and a 401 Water Quality Certification.
- ii. Point source activities include any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States or the State.

Site. The entire area included in the legal description of the land on which land disturbing activity is to be performed.

Slope. Degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical distance (rise)--e.g., 2:1. However, the preferred method for

designation of slopes is to clearly identify the horizontal (H) and vertical (V) components (length (L) and Width (W) components for horizontal angles). Also note that according to international standards (Metric), the slopes are presented as the vertical or width component shown on the numerator--e.g., 1V:2H. Slope expressions in this Ordinance follow the common presentation of slopes--e.g., 2:1 with the metric presentation shown in parentheses--e.g., (1V:2H). Slopes can also be expressed in "percent". Slopes given in percent are always expressed as $(100 \cdot V/H)$ -- e.g., a 2:1 (1V:2H) slope is a 50% slope.

Soil. The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

Soil and Water Conservation District. A public organization created under state law as a special-purpose district to develop and carry out a program of soil, water, and related resource conservation, use, and development within its boundaries. A subdivision of state government with a local governing body, established under IC 14-32.

Solid Waste. Any garbage, refuse, debris, or other discarded material.

Spill. The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

Storm Duration. The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

Storm Event. An estimate of the expected amount of precipitation within a given period of time. For example, a 10-yr. frequency, 24-hr. duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hr. period.

Storm Sewer. A closed conduit for conveying collected stormwater, while excluding sewage and industrial wastes. Also called a storm drain.

Stormwater. Water resulting from rain, melting or melted snow, hail, or sleet.

Stormwater Management System. A collection of structural and non-structural practices and infrastructure designed to manage stormwater on a site. This system may include but is not limited to erosion control measures, storm drainage infrastructure, detention/retention facilities, and stormwater quality BMP's.

Stormwater Pollution Prevention Plan. A plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

Stormwater Runoff. The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

Stormwater Quality Management Plan. A comprehensive written document that addresses stormwater runoff quality.

Stormwater Quality Measure. A practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.

Stormwater Drainage System. All means, natural or man-made, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets and pumping stations.

Strip Development. A multi-lot project where building lots front on an existing road.

Subdivision, Major. Any land that is divided or proposed to be divided into four (4) or more lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

Subdivision, Minor. Any land that is divided or proposed to be divided into less than four (4) lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

Subsurface Drain. A pervious backfield trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

Surface Runoff. Precipitation that flows onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by that surface but collects and runs off.

Swale. An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

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 material applied at a uniform density of seventy percent (70%) across the disturbed area.

Tile Drain. Pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

Topographic Map. Graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

Topography. The representation of a portion of the earth's surface showing natural and man-made features of a give locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area.

Trained individual. An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification (such as CESSWI and/or CPESC certification), or other documented and applicable experience or coursework as deemed sufficient by the Town of Burns Harbor that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

Urban Drain. A drain defined as “Urban Drain” in Indiana Drainage Code.

Urbanization. The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

Vegetated swale. A type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

Violation. Any action or inaction which violates the provisions of this Ordinance or the Technical Standards, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in Section 7 of this Ordinance. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief in addition to, and separate from, the imposition of any of the enforcement actions described in Section 7 of this Ordinance.

Water Quality. A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

Water Resources. The supply of groundwater and surface water in a given area.

Waterbody. Any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

Watercourse. Any river, stream, creek, brook, branch, natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

Watershed. The region drained by or contributing water to a specific point that could be along a stream, lake or other stormwater facility. Watersheds are often broken down into subareas for the purpose of hydrologic modeling.

Watershed Area. All land and water within the confines of a drainage divide. See also Watershed.

Wetlands. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.