

BARGERSVILLE ORDINANCE NO. 2005 - 1

TOWN OF BARGERSVILLE, INDIANA

AN ORDINANCE TO ESTABLISH
REQUIREMENTS FOR STORM WATER DISCHARGES
FROM CONSTRUCTION ACTIVITIES

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Section I. Introduction/ Purpose

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

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

Section II. Definitions

1. "Agricultural land disturbing activity" means 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. For purposes of this ordinance, the term does not include land disturbing activities for the construction of agricultural related facilities, such as (A) barns; (B) buildings to house livestock; (C) roads associated with infrastructure; (D) agricultural waste lagoons and facilities; (E) lakes and ponds; (F) wetlands; and (G) other infrastructure.
2. "Best management practices" mean an activity or structure that helps improve the quality of storm water runoff.
3. "Certified contractor" means a person who has received training and is licensed by the state or other local agency to inspect and maintain erosion and sediment control practices and best management practices.

4. "Clearing" means any activity that removes the vegetative surface cover.
5. "Construction activity" means 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.
6. "Construction plan" means a representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A storm water pollution prevention plan is a part of the construction plan.
7. "Developer" means (A) any person financially responsible for construction activity; or (B) an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.
8. "Erosion" means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.
9. "Erosion and sediment control measure" means a practice, or a combination of practices, to control erosion and resulting sedimentation.
10. "Erosion control" means a measure that prevents erosion.
11. "Grading" means the cutting and filling of the land surface to a desired slope or elevation.
12. "Land disturbance" or "land disturbing activity" means any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.
13. "Measurable storm event" means a precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.
14. "Notice of intent letter" or "NOI" means a written notification indicating a person's intention to comply with the terms of a specified general permit rule in lieu of applying for an individual NPDES permit and includes information as required under 327 IAC 15-3 and the applicable general permit rule.
15. "Project site" means the entire area on which construction activity is to be performed.

16. "Project site owner" means the person required to submit the NOI letter under 327 IAC 15 and required to comply with the terms of Rule 5 and this Ordinance, including either of the following: (A) a developer; or (B) 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.
17. "Rule 5" means 327 IAC 15-5.
18. "Sediment" means solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its place of origin by air, water, gravity, or ice and has come to rest on the earth's surface.
19. "Sediment control" measures that prevent eroded sediment from leaving a project site.
20. "Soil" means the unconsolidated mineral and organic material on the surface of the earth that serves as the natural medium for the growth of plants.
21. "Soil and Water Conservation District" or "SWCD" means a political subdivision established under IC 14-32.
22. "Storm water pollution prevention plan" or "SWPPP" means a plan developed to minimize the impact or storm water pollution resulting from construction and post-construction activities. The plan indicates the specific measures and sequencing to be used to control sediment, soil erosion and other construction site wastes during and after construction.
23. "Storm water quality measure" means a practice, or a combination of practices, to control or minimize pollutants associated with storm water run-off.
24. "Subdivision" means any land that is divided or proposed to be divided into 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.
25. "Technical review and comment form" means a form issued by the building department stating that the erosion and sediment control plan is adequate or stating revisions needed in the erosion and sediment control plan and storm water pollution prevention plan.
26. "Trained individual" means an individual who is trained and experienced in the principles of storm water quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make judgments regarding storm water control or treatment and monitoring.

27. Other terms contained in this Ordinance shall have the meaning set forth in 327 IAC 15.

Section III. Applicability

1. The requirements of this Ordinance are in compliance with Rule 5 and apply to all persons meeting the requirements of 327 IAC 15-5-2. In general, this Ordinance requires the control of storm water discharges from construction activities with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land.

2. The requirements of this Ordinance do not apply to persons who are involved in (A) agricultural land disturbing activities; or (B) forest harvesting activities.

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

4. In addition to the requirements of this Ordinance, storm water pollution prevention plans shall be developed in accordance with the Bargersville Drainage Standards Manual.

Section IV. Submittals, Review and Approval

1. A technical review and comment form stating that the "Plan is Adequate" and a building permit shall be obtained prior to the initiation of any land disturbing activities.

2. A complete storm water pollution prevention plan and erosion and sediment control plan (as described in the Bargersville Drainage Standards Manual and in accordance with Rule 5) shall be submitted in duplicate to the Bargersville Department of Storm Water Management ("DSWM") or its designated representative. One copy will be used for review and one for construction site inspections.

3. At the time of submittal, the date and time will be recorded.

4. Each application shall bear the name(s) and address(es) of the owner or developer of the project site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee, defined in the Bargersville Drainage Standards Manual.

5. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Storm Water Pollution Prevention Plan and that a certified contractor shall be on the project site on all days when construction or grading activity takes place.

6. The Bargersville DSWM in cooperation with the Bargersville Utilities will review each SWPPP to determine its conformance with the provisions of this regulation. Within twenty-eight (28) days after receiving the SWPPP, the Bargersville DSWM shall, in writing:

(A) Approve the SWPPP and provide a Technical Review and Comment Form stating that the "Plan is Adequate";

(B) Approve the SWPPP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the Technical Review and Comment Form stating that the "Plan is Adequate"; or

(C) Provide a Technical Review and Comment Form stating that the "Plan is Deficient" and indicating the reason(s) and procedure for submitting a revised application and/or submission.

7. Failure of the Bargersville DSWM to act on an original or revised application within 28 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the DSWM. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Bargersville DSWM .

8. The sufficiency of the construction plans shall be based upon Rule 5 regulations and the criteria described in the current Bargersville Drainage Standards Manual.

9. After receiving a Technical Review and Comment Form stating that the "Plan is Adequate", if revisions to the construction plans require a change in measures appropriate to control the quality or quantity of storm water runoff, then revised plans must be submitted to Bargersville DSWM .

10. The applicant will be required to file with the Bargersville DSWM faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the Bargersville DSWM to cover all costs of improvements, landscaping,

maintenance of improvements for such period as specified by the Bargersville DSWM, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the project site.

11. After receiving a Technical Review and Comment Form stating that the "Plan is Adequate" from the Bargersville DSWM , and within forty-eight (48) hours of the start of construction, the following shall be submitted to the Indiana Department of Environmental Management and County SWCD:

(A) Notice of Intent Form (required by 327 IAC 15-5);

(B) A copy of the Technical Review and Comment Form stating that the "Plan is Adequate"; and

(C) Proof of Publication required by 327 IAC 15-5-5(9).

A copy of the NOI must also be submitted to the Bargersville DSWM .

12. The project site owner must submit a notice of termination ("NOT") letter to Indiana Department of Environmental Management and transmit a copy of the NOT letter to the Bargersville DSWM and the County SWCD when all land disturbing activities have been completed, the entire project site has been stabilized and all temporary erosion and sediment control measures have been removed.

Section V. Storm Water Pollution Prevention Plan

The Storm Water Pollution Prevention Plan including erosion and sediment control measures shall meet the requirements contained in Rule 5, the Bargersville Drainage Standards Manual, and the Indiana Storm Water Quality Manual.

Section VI. Design Requirements

Erosion and sediment control measures shall be designed and installed in accordance with Rule 5, the Bargersville Drainage Standards Manual, and the Indiana Storm Water Quality Manual.

Section VII. Inspection

1. A self-monitoring program must be implemented by the project site owner. A trained individual shall perform a written evaluation of the project site by the end of the

next business day following each measurable storm event and at a minimum of one (1) time per week.

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

3. Written evaluation reports must include the following:

(A) The name of the individual performing the evaluation;

(B) The date of the evaluation;

(C) Problems identified at the project site; and

(D) Details of corrective actions recommended and completed.

4. All evaluation reports for the project site must be made available to the inspecting authority within forty-eight (48) hours of a request.

5. All persons engaging in construction activities on a project site must comply with the Storm Water Pollution Prevention Plan, this ordinance, Rule 5 and the Bargersville Drainage Standards Manual.

6. Construction site owners shall allow right-of-entry for the Bargersville DSWM, Bargersville Utilities, or local, county, or state regulatory agency or a representative thereof to inspect any project site involved in construction activities.

7. The Bargersville DSWM or Bargersville Utilities will perform inspections and provide recommendations to evaluate the installation, implementation and maintenance of control measures and management practices at any project site involved in construction activities. Construction project sites will be prioritized based on the nature and extent of the construction activity, topography and the characteristics of soils and receiving water quality.

8. If after a recommendation is provided to the project site owner, corrective action is not taken, the Town of Bargersville will pursue enforcement according to Section VIII of this ordinance.

Section VIII. Enforcement

1. Written Notification. In the event the Town of Bargersville or other regulatory agency determines the project is not in compliance with this ordinance, Rule 5 or the

Bargersville Drainage Standards Manual, the project site owner will be issued a written notification from the Town of Bargersville. The written notification may be in the form of a warning letter of noncompliance or violation notice.

2. Penalties. Following a written notification, the project site owner has five (5) business days to correct the deficiency. In the event the deficiency is not corrected within this period, a fine of not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00) per deficiency may be assessed against the project site owner, and each day such violation exists shall constitute a separate violation. ner.

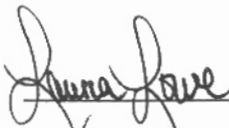
3. Stop-Work Order (Revocation of Building Permit). In the event that any person with approval pursuant to this ordinance violates the terms of the building permit or implements construction practices in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or project site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town of Bargersville may suspend or revoke the Building Permit.

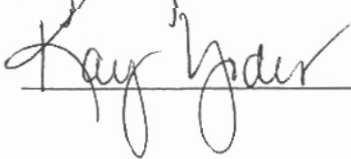
Section IX. Adoption of Ordinance

This ordinance shall be in full force and effect after its passage and adoption, and after any required publication.

PASSED by the Town Council of the Town of Bargersville, Indiana, this ~~14th~~ 11th day of January, 2005.

TOWN COUNCIL OF THE TOWN OF
BARGERSVILLE, INDIANA











ATTEST:


Clerk-Treasurer