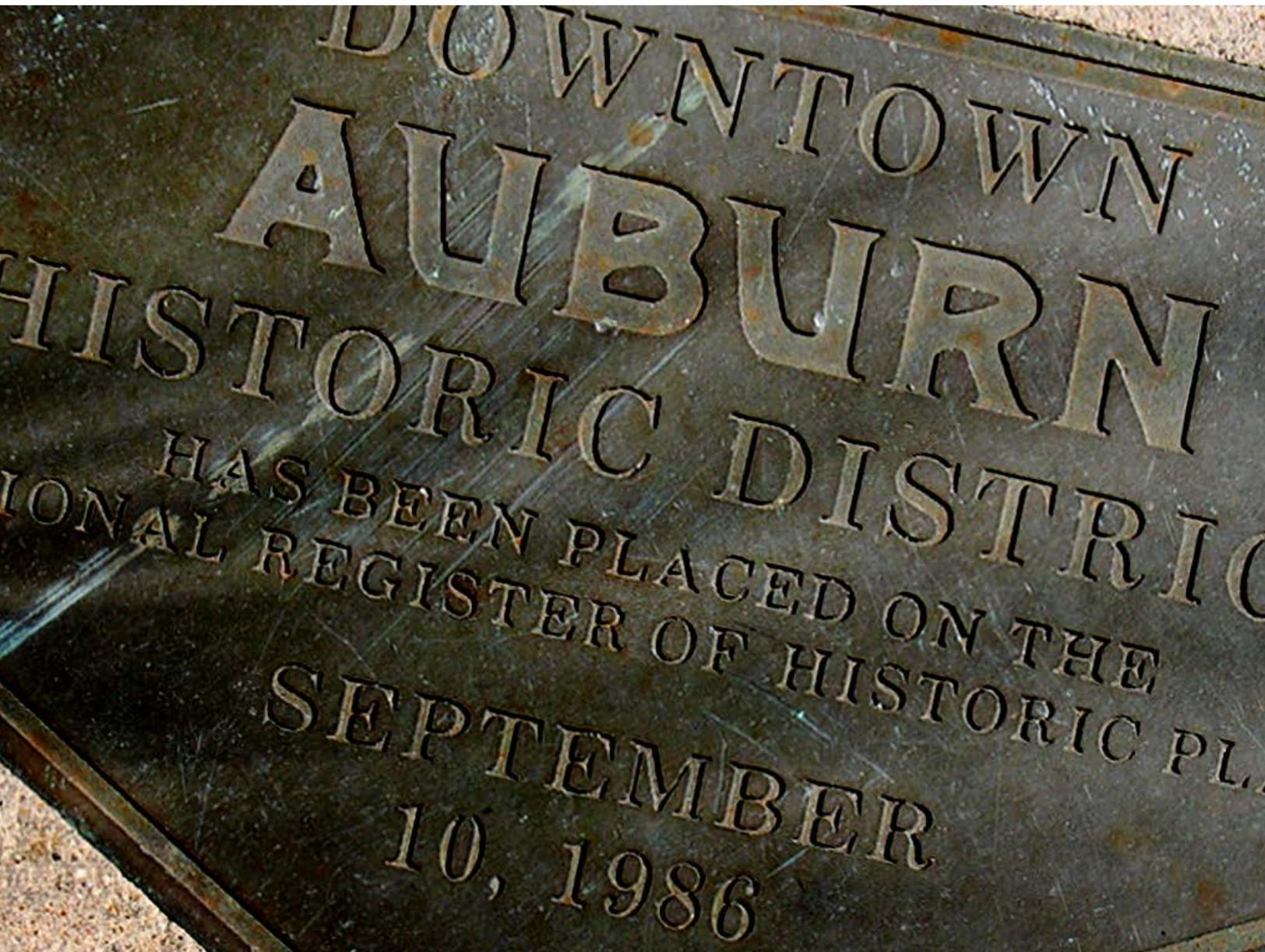




Code of Ordinances
CITY OF AUBURN





Post Construction Storm
Water Control

CHAPTER
162

AUBURN



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162.001 INTRODUCTION/PURPOSE

The purpose of this ordinance is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the City of Auburn MS4 Area. This ordinance seeks to meet that purpose through the following objectives:

- A. To prevent accelerated soil erosion and to control storm water runoff resulting from land disturbing activities, both during and after construction.
- B. To assure that property owners control the volume and rate of storm water runoff originating from their property so that surface water and groundwater quality is protected, soil erosion minimized and flooding potential reduced.
- C. To restrict storm water runoff entering and leaving development sites to non-erosive velocities by requiring temporary and permanent soil erosion control measures.
- D. To assure that soil erosion control and storm water runoff control systems are incorporated into site planning at an early stage in the planning and design process.
- E. To eliminate the need for costly maintenance and repairs to roads, embankments, ditches, streams, lakes, wetlands, and storm water control facilities which are the result of excessive soil erosion and inadequate storm water runoff control.
- F. To encourage the design and construction of storm water control systems which serve multiple purposes, including but not limited to flood prevention, water quality protection, wildlife habitat preservation, education, recreation, and wetlands protection.
- G. To assure that all storm water control facilities will be properly designed, constructed, and maintained.
- H. To provide for enforcement of this ordinance.

- **Compatibility with Other Permit and Ordinance Requirements**

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

- **Severability**

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

- **Development of a Storm Water Best Management Practices (BMP) Technical Manual**

The City of Auburn will furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and will provide such information in the form of a Storm Water BMP Technical Manual. This manual will include a list of approved storm water BMPs, including specific design criteria and operation and maintenance requirements for each practice. The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring, and local maintenance experience. Storm water treatment practices that are constructed in accordance with



these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

162.002 DEFINITIONS

- Auburn, City of
means employees or representatives of the City of Auburn designated to enforce and administer this ordinance.
- Best management practice (BMP)
means any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water run-off. It includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.
- Conveyance
means any structural process for transferring storm water between at least two (2) points. The term includes, but is not limited to, piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.
- DeKalb County
means employees or representatives of the DeKalb County, Indiana.
- Department
refers to the Indiana Department of Environmental Management (IDEM).
- Floatable
means any solid waste that, due to its physical characteristics, will float on the surface of water. For the purposes of this ordinance, the term does not include naturally occurring floatables, such as leaves or tree limbs.
- Illicit discharge
means any discharge to an MS4 conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges include sanitary wastewater, septic tank effluent, car wash wastewater, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, and household hazardous wastes.
- Impervious surface
means any surface that prevents storm water to readily infiltrate into the soils.
- Individual National Pollutant Discharge Elimination System (NPDES) permit
means an NPDES permit issued to one (1) MS4 operator that contains requirements specific to that MS4 conveyance.
- Larger common plan of development or sale
means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease where such land is contiguous, or is known, designed, 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 construction by a single entity for its own use.
- Maintenance Agreement
means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

- Development of a Storm Water Best Management Practices (BMP) Technical Manual
The City of Auburn will furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance and will provide such information in the form of a Storm Water BMP Technical Manual. This manual will include a list of approved storm water BMPs, including specific design criteria and operation and maintenance requirements for each practice. The manual may be updated and expanded from time to time, at the discretion of the local review authority, based on improvements in engineering, science, monitoring, and local maintenance experience. Storm water treatment practices that are constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.
- MS4 area
means a land area comprising one (1) or more places that receives coverage under one (1) NPDES storm water permit regulated by Rule 13 or 327 IAC 5-4-6(a)(4) and 327 IAC 5-4-6(a)(5).
- MS4 operator
means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 area.
- Municipal separate storm sewer system (MS4)
means a conveyance or system of conveyances, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:
 1. owned or operated by a:
 - a. federal, state, city, County, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or
 - b. privately owned storm water utility, hospital, university, or college having jurisdiction over storm water that discharges into waters of the state;
 2. designed or used for collecting or conveying storm water;
 3. not a combined sewer; and
 4. not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.
- Municipal, state, federal, or institutional refueling area
means an operating gasoline or diesel fueling area whose primary function is to provide fuel to either municipal, state, federal, or institutional equipment or vehicles.
- Notice of deficiency letter (NOD letter)
means a written notification from the department indicating an MS4 entity's deficiencies in its NOI letter or SWQMP submittals.
- Notice of intent letter (NOI letter)
means a written notification indicating an MS4 entity's intention to comply with the terms of Rule 13 in lieu of applying for an individual NPDES permit and includes information as required under sections 6 and 9 of Rule 13. It is the application for obtaining permit coverage under Rule 13.
- Notice of sufficiency letter (NOS letter)
means a written notification from the department indicating that an MS4 entity has sufficiently provided the required information in its NOI letter or SWQMP submittals.



- Notice of termination letter (NOT letter)
means a written notification from the department indicating that an MS4 entity has met the conditions to terminate its permit coverage under Rule 13.
- Pollutant
means anything that causes or contributes to pollution discharged into waterways. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind. Also, but not limited to dredged spoil; incinerator residue, filter backwash; sewage; garbage; sludge; munitions; chemical wastes; solid wastes; toxic wastes; hazardous substances; biological materials; radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended; 42 U.S.C. 011, et seq., heat, wrecked or discarded equipment; rock; sand; cellar dirt; and other industrial, municipal, and agricultural waste; discharged into water.
- Pollutant of concern
means any pollutant that has been documented via analytical data as a cause of impairment in any waterbody, or to another MS4, to which the MS4 discharges.
- Responsible individual or party
means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 entity.
- Retail gasoline outlet
means 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 surfaces or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.
- Soil and water conservation district (SWCD)
means a political subdivision established under IC 14-32.
- Storm water
means water resulting from rain, melting or melted snow, hail, sleet or other natural occurrences.
- Storm water quality management plan (SWQMP)
means a comprehensive written document that addresses storm water run-off quality within an MS4 area. The SWQMP is divided into three (3) different submittal parts as follows:
 1. Part A-Initial Application.
 2. Part B-Baseline Characterization and Report.
 3. Part C-Program Implementation.
- Waters
means:
 1. the accumulations of water, surface and underground, natural and artificial, public and private;
or
 2. a part of the accumulations of water; that are wholly or partially within flow through, or border upon Indiana. The term does not include a private pond, or an off stream pond, reservoir, or



BMP built for reduction or control of pollution or cooling of water before discharge, unless the discharge from the pond, reservoir, or BMP causes or threatens to cause water pollution.

- Watershed
means an area of land from which water drains to a common point.

162.003 APPLICABILITY

The requirements under this ordinance are in compliance with 327 IAC 15-5 (Rule 5) and 327 IAC 15-13 (Rule 13). The storm water pollution prevention plan, which is submitted to the City of Auburn as part of the construction plan approval process, must include post-construction storm water 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 store and/or treat storm water from the stabilized site. Any project located within the City of Auburn that includes clearing, grading, excavation, concrete or bituminous paving, and other land disturbing activities, resulting in the disturbance of or impact on one (1) acre or more of total land area, is subject to the requirements of this Ordinance. This includes both new development and re-development, and 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, within the MS4 area.

The requirements under Rule 13 do not apply to persons who are involved in agricultural land disturbing activities or forest harvesting activities.

The requirements under Rule 13 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 Indiana Department of Environmental Management (IDEM) under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cell(s) either within or outside the original solid waste permit boundary
- D. Road and regulated drain maintenance

It will be the responsibility of the project site owner and/or project site owner's designee to ensure proper construction and installation of all storm water BMPs in compliance with this Ordinance, and to notify the City of Auburn MS4 Operator with a notice of termination letter (NOT) upon completion of the project and stabilization of the site. However, all eventual property owners of storm water quality management facilities meeting the applicability requirements must comply with the requirements of this Ordinance.

162.004 PERFORMANCE CRITERIA FOR STORM WATER MANAGEMENT

Unless judged by the City of Auburn to be exempt, the following performance criteria shall be addressed for storm water management at all sites:

- A. All site designs shall establish storm water management practices to control the peak flow rates of storm water discharge associated with specified design storms and reduce the generation of storm water. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- B. All storm water generated from new development shall not discharge untreated storm water directly into a receiving water body.



- C. For new development, structural storm water treatment practices shall be designed to remove 80% of the average annual post development total suspended solids (TSS) load. It is presumed that a BMP complies with this performance standard if it is:
 - 1. Sized to capture the prescribed water quality volume (WQ).
 - 2. Designed according to the specific performance criteria outlined in the City of Auburn's Storm Water BMP Technical Manual,
 - 3. Constructed properly, and
 - 4. Maintained regularly.
- D. The calculations for determining peak flows as found in the Storm Water BMP Technical Manual shall be used for sizing all storm water BMPs unless prior approval is received from the City of Auburn.
- E. For sites that discharge to DeKalb County controlled drains the storm water BMP shall be designed to meet any applicable requirements in the DeKalb County Storm Water Control Ordinance and receive County Drainage Board approval if appropriate.
- F. New retail gasoline or diesel fuel outlets, new municipal, state, federal, or institutional gasoline or diesel refueling areas, or new privately owned gasoline or diesel refueling areas, or existing gasoline or diesel outlets and refueling areas that replace their existing tanks or install additional new tanks must install appropriate BMPs to reduce lead, copper, zinc, and hydrocarbons in storm water.
- G. Individual properties that have 5.0 acres or more of paved (asphalt, concrete, brick, stone pavers, or other impervious materials) area must install appropriate practices to reduce lead, copper, zinc, and hydrocarbons in storm water.
- H. Infiltration practices are to be allowed in wellhead protection areas.
- I. Vegetated filter strips are required along unvegetated swales and ditches.
- J. Discharge from the MS4 conveyance into sinkholes or fractured bedrock without treatment that results in the discharge meeting Indiana groundwater quality standards as references in 327 IAC 2-11 are prohibited.
- K. Discharges from storm water Class V injection must meet Indiana groundwater quality standards.

162.005 STORM WATER MANAGEMENT DESIGN CRITERIA

The specific storm water BMP design criteria are not detailed in this Ordinance. The detailed storm water management design criteria are provided in the City of Auburn's Storm Water BMP Technical Manual. The Storm Water BMP Technical Manual allows select design information to change over time as new information or techniques become available without requiring the formal process needed to change ordinance language. The Ordinance can then require those submitting any development application to consult the current Storm Water BMP Technical Manual for the exact design criteria for the storm water management practices appropriate for their site.

Approved BMP's are listed in the City of Auburn's Storm Water BMP Technical Manual. The approved BMPs must be designed, constructed, and maintained according to guidelines provided in the Storm Water BMP Technical Manual or as provided by the manufacturer of the storm water BMP. Practices other than those specified in the approved list may be utilized. However, the burden of proof, as to whether the performance (minimum 80% TSS removal) and ease of maintenance of such practices will be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMPs are available from the International Storm water Best Management Practices (BMP) Database developed by the Federal



Highway Administration (FHWA) and the American Society of Civil Engineers (ASCE). The information and data is available at <http://www.bmpdatabase.org>.

- **Minimum Control Requirements**

All storm water BMPs will be designed so that the specific storm frequency storage volumes to meet water quality and water quantity reduction requirements as identified in the current Storm Water BMP Technical Manual are met.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the control requirements present in the BMP Technical Manual, the City of Auburn reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of run off.

- **Site Design Feasibility**

Storm water management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered include:

- Topography
- Maximum Drainage Area
- Depth to Water Table
- Soils
- Slopes
- Terrain
- Head
- Location in relation to environmentally sensitive features or urban areas.

Applicants shall consult the Storm Water BMP Technical Manual for guidance on the factors that determine site design feasibility when selecting storm water BMPs

162.006 REQUIREMENTS FOR STORM WATER MANAGEMENT PLAN APPROVAL

The City shall review the Storm Water Pollution Prevention Plan (SWPPP) to determine whether the requirements of this ordinance and the City of Auburn Construction Site Run-Off Control located in Section 162 of the City of Auburn Municipal Code. If the City determines that the proposed SWPPP complies with the standards in the Construction Site Runoff Control and Post Construction Runoff Control Ordinances, a permit shall be issued specifying the work approved. If the proposed plan does not comply with these standards, the permit request shall be modified or denied. Upon request, the City will furnish the applicant or other interested persons with a statement in writing of the reasons for permit denial or approval. If necessary, the City may request additional information from the applicant.

162.007 CONSTRUCTION INSPECTION

- **Notice of Construction Commencement**

The applicant must notify the City of Auburn in advance before the commencement of construction of the BMP. The staff of the City of Auburn shall conduct regular inspections of the construction site. All inspections shall be documented and written reports prepared that contain the following information:

1. The date and location of the inspection;
2. Whether construction is in compliance with the approved storm water management plan;
3. Variations from the approved construction specifications; and
4. Any infractions of this ordinance that exist.



If any infractions are found, the property owner shall be notified in writing of the nature of the infraction and the required corrective actions. No added work shall proceed until any infractions are corrected and all work previously completed has received approval by the City of Auburn.

- **As Built Plans**

All project site owners are required to submit “as built” plans for any storm water BMPs located on-site after final construction is completed. The plan must show the final design specifications for all storm water BMPs and must be certified by a professional engineer. A final inspection by the City of Auburn is required before the release of any performance securities can occur.

- **Landscaping and Stabilization Requirements**

Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within fifteen (15) days from the substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:

- Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
- Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
- Any area of revegetation must exhibit survival of a minimum of seventy percent (70%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy percent (70%) survival for one (1) year is achieved.

In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or the owner of the real estate, with the approval of the local soil conservation district, and must be approved prior to receiving a permit.

- **Inspection Authority**

After the approval of the Storm Water Management Plan by the City of Auburn and the commencement of construction activities, the City of Auburn has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this Ordinance and the terms and conditions of the approved permit.

The City of Auburn has the authority to perform long-term, post-construction inspection of all public or privately owned BMPs. The inspections will follow the Operation and Maintenance procedures included in the Storm Water BMP Technical Manual and/or permit application for each specific BMP. The inspection will cover physical conditions, available water quality storage capacity, and the operational condition of key BMP elements but is not limited to these items. Noted deficiencies and recommended corrective actions will be included in an inspection report. If deficiencies are found during the inspection, the owner of the BMP will be notified by the City of Auburn 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 City of Auburn will undertake the work and collect from the owner using lien rights if necessary.



162.008 MONITORING, MAINTENANCE, AND REPAIR OF STORM WATER FACILITIES MONITORING REQUIREMENTS

The City of Auburn may require monitoring of the discharge from a BMP if

- A. Illicit Discharges to the BMP have been detected;
- B. Maintenance problems have been noted; and/or
- C. Complaints have been received from City residents

Monitoring required may include the following:

- A. Routine visual monitoring of dry weather flows;
- B. Routine visual monitoring of premises for spills or pollutant discharges;
- C. A log of monitoring dates, potential pollution sources noted above, and mitigation measures taken; and/or
- D. Laboratory analyses for pollutants, if determined to be necessary.

Required monitoring may be discontinued after conditions requiring monitoring no longer exist and the City of Auburn has been provided written notice prior to cessation. The required activity may not cease if written notice to continue is issued by the City of Auburn.

- **Maintenance Easement**

Prior to the issuance of any permit that has a BMP as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the BMP. The agreement shall provide for access to the BMP at reasonable times for periodic inspection by the City of Auburn, or their designated representative, to ensure that the BMP is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the City of Auburn in the land records.

- **Maintenance Covenants**

Maintenance of all storm water BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Auburn and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the BMP.

The covenant shall also include plans for periodic inspections to ensure proper performance of the BMP between scheduled cleanouts, any and all maintenance easements required to access and inspect the storm water BMPs, and to perform routine maintenance as necessary to ensure proper functioning.

The City of Auburn, in lieu of a maintenance covenant, may accept dedication of any existing or future storm water BMP for maintenance, provided such BMP meets all the requirements of this Ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

- **Inspection of Storm Water BMPs**

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible infractions of this Ordinance. All storm water management BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the



requirements of this Ordinance and accomplishment of its purposes. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of storm water BMPs.

Any maintenance needs found must be addressed in a timely manner, as determined by the City of Auburn, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water BMP.

- **Right-of-Entry for Inspection**

When any new storm water BMP is installed on private property, or when any new connection is made between private property and a public storm sewer conveyance, sanitary sewer or combined sewer, the property owner shall grant to the City of Auburn the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that an infraction of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of an infraction of this ordinance.

- **Records of Installation and Maintenance Activities**

Parties responsible for the operation and maintenance of storm water BMPs shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 5 (five) years. These records shall be made available to the City of Auburn during the inspection of the BMP and at other reasonable times upon request.

- **Failure to Maintain Practices**

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Auburn, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the BMP in proper working condition. In the event that the storm water BMP becomes a danger to public safety or public health, the City of Auburn shall notify the party responsible for maintenance of the storm water BMP in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to conduct maintenance and repair of the BMP in an approved manner. After proper notice, the City of Auburn may assess the owner(s) of the BMP for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.