

**AN ORDINANCE TO ESTABLISH
A DEPARTMENT OF STORM WATER MANAGEMENT
FOR DELAWARE COUNTY**

WHEREAS, the General Assembly of the State of Indiana has made the determination that management of surface water and storm water is a primary concern for the State of Indiana and its political subdivisions; and

WHEREAS, storm water and surface water control and management as required by the Indiana Municipal Separate Storm Sewer System (MS4) – NPDES Permitting Program 327 IAC 15-13 is an unfunded governmental mandate placed upon the citizens of Delaware County; and

WHEREAS, it is in the best interest of Delaware County and its citizens that a Department of Storm Water Management be created for the purpose of providing for the collection, disposal and drainage of storm and surface water as required by the Indiana Municipal Separate Storm Sewer System (MS4) – NPDES Permitting Program 327 IAC 15-13 within the County of Delaware; and

WHEREAS, an interlocal agreement shall be established between the Muncie Sanitary District and the Delaware County Department of Storm Water Management (DCDSM) to provide consistency and equity for all citizens of Delaware County for the purpose of providing for the management of the storm water collection and conveyance systems and activities within Delaware County and the boundaries of the Muncie Sanitary District (MSD); and

WHEREAS, the DCDSM and MSD agree that they shall work together for the best interest of the citizens of Delaware County for the purpose of managing the storm water collection conveyance systems both within Delaware County, Indiana, and within the boundaries of the MSD; and

WHEREAS, DCDSM shall be responsible for the management of the storm water collection and conveyance systems in all parts of Delaware County, Indiana, which are not within the boundaries of the MSD.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for Delaware County as follows:

- 1) Indiana Code 8-1.5-5 et seq. concerning "Storm Water Management Systems" is hereby adopted by the Delaware County Commissioners, Indiana, so as to make the Act and any and all amendments thereto effective and operative in Delaware County, Indiana; and

- 2) Pursuant to I.C. 8-1.5-5, a Department of Storm Water Management shall be and is hereby created for the purpose of providing for the collection, disposal and drainage of storm and surface water as required by the Indiana Municipal Separate Storm Sewer System (MS4) – NPDES Permitting Program 327 IAC 15-13 within the Delaware County; and
- 3) Pursuant to I.C. 8-1.5-5-4.5, the Department of Storm Water Management shall be controlled by the members of the County Executive and the County Surveyor as the Board of Directors of the Department; and
- 4) The term of office of a member of the Board who is appointed from the membership of the County Executive is coextensive with the members' term of office on the County Executive. The term of the Surveyor or the Surveyors designee as a member of the Board is coextensive with the Surveyor's term of office. A member of the Board of Directors is not entitled to a salary or per diem for serving on the Board. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of their official duties; and
- 5) Pursuant to I.C. 8-1.5-5, the area governed by the Department of Stormwater management shall include all of the territory within the corporate boundaries of Delaware County that is not located in a municipality; and
- 6) The Department of Stormwater Management Board shall have the powers as set forth in I.C. 8-1.5-3-4(a) and 8-1.5-5-6, as currently provided for below or which may hereafter be amended in the future:

Pursuant to I.C. 8-1.5-3-4(a) the Board has general supervisory powers over the utilities under its control, with responsibility for the detailed supervision of each utility to be vested in its superintendent, who is responsible to the Board for the business and technical operation of the utility. The Board shall:

1. Fix the number and compensation of employees;
2. Adopt rules governing the appointment of employees including making proper classifications and rules to:
 - a. Determine the eligibility of applicants;
 - b. Determine by competitive examination the relative fitness of applicants for positions;
 - c. Establish eligible lists arranged according to the ratings secured;
 - d. Provide for the appointment of those having the highest ratings; and
 - e. Provide for the promotion of employees.
3. Subject to I.C. 36-4-9-2, appoint a superintendent or manager of each utility under its control who is responsible to the Board for business and technical operation of the utility; the Board shall make the appointment on the basis of fitness to manage the particular utility to which the superintendent is to be assigned, taking into account his or her executive ability and his or her knowledge of the utility industry.
4. Subject to I.C. 36-4-9-12, hire attorneys when required for the operation of the utility.
5. Hire professional or expert personnel when required for operation of the utility.

6. Submit a budget of its financial needs for the next year in the detail required by the legislative body;

7. Recommend to the legislative body reasonable and just rates and charges for services to the patrons of each utility.

8. Appropriate, lease, rent, purchase, and hold all real and personal property of the utility.

9. Enter upon lands for the purposes of surveying or examining the land to determine the location of any plant or appurtenances.

10. Award contracts for:

- a. The purchase of capital equipment;
- b. The construction of capital improvements; or
- c. Other property or purposes that is necessary for the full and efficient construction, management, and operation of each utility.

11. Adopt rules for the safe, economical and efficient management and protection of each utility.

12. Deposit at least weekly with the municipal fiscal officer all money collected from each utility to be kept in a separate fund subject to the order of the Board.

13. Make monthly reports to the fiscal officer of the receipts and disbursements of money belonging to each utility and an annual report of the condition of the utility.

Additional powers of the Board as per I.C. 8-1.5-5-6-, include:

1. Holding hearings following public notice.
2. Make findings and determinations.
3. Install, maintain, and operate a stormwater collection and disposal system.
4. Make all necessary or desirable improvements of the grounds and premises under its control.
5. Issue and sell bonds of the district in the name of the unit served by the department for the acquisition, construction, alternation, addition, or extension of the stormwater collection and disposal system or for the refunding of any bonds issued by the Board.

8) The Storm Water Management Board shall prepare a budget for the operation of the Department on an annual basis which budget shall contain funds to maintain the Indiana Municipal Separate Storm Sewer System (MS4) – NPDES Permitting Program 327 IAC 15-13 and shall include but not necessarily be limited to:

1. General Administration
2. Public Education and Outreach
3. Public Participation and Involvement
4. Illicit Discharge Detection and Elimination
5. Construction Site Runoff Control
6. Post-Construction Site Runoff Control
7. Pollution Prevention and Good Housekeeping
8. Tracking & monitoring Storm Water Quantity into the Sanitary Storm Sewer System and into Delaware County Legal Drains.

9) Any Delaware County ordinance or provision of any ordinance in conflict with the provisions of this ordinance is hereby repealed; and

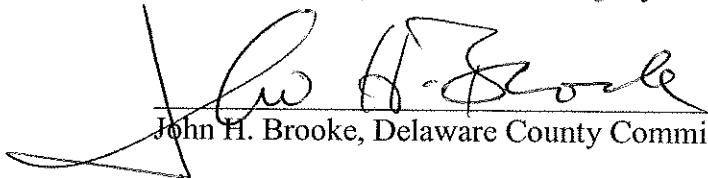
10) The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts; and

This Ordinance shall be in full force and effect from and after its adoption and approval by the Delaware County Commissioners.

DATED this 20 day of December, 2006.


Larry L. Crouch, Delaware County Commissioner


Tom L. Bennington, Delaware County Commissioner


John H. Brooke, Delaware County Commissioner

ATTEST:


Jane Lasater, Auditor for Delaware County