

ORDINANCE 06-01SOIL EROSION AND SEDIMENTATION CONTROL FROM AREAS UNDERGOING  
DEVELOPMENT IN THE NATURE WORKS CONSERVANCY DISTRICTARTICLE I  
FINDINGS AND PURPOSE

## A. Findings

The Board of Directors of the Nature Works Conservancy District finds that:

1. Excessive quantities of soil may erode from areas undergoing development for certain non-agricultural uses including but not limited to the construction of dwelling units, commercial buildings, and industrial plants, the building of roads and highways, and the creation of recreational facilities;
2. Sediment from soil erosion tends to clog sewers and ditches and to pollute and silt rivers, streams, ponds, lakes, and reservoirs;
3. Sediment limits the use of water and waterways for most beneficial purposes and has resulted in the deterioration of the water resources of Nature Works Conservancy District.
4. Sediment reduces the channel capacity of waterways, resulting in increased chances of flooding at risk to public health and safety.
5. Adopting the standards, criteria and procedures contained in this Ordinance and implementing the same will address many of the detrimental effects associated with land development;
6. Adopting these standards is necessary for the preservation of the soils and topography of Nature Works Conservancy District as well as the public health, safety and welfare; and
7. Nature Works Conservancy District has the authority to adopt an Erosion and Sediment Control Ordinance pursuant to the Porter Circuit Court Order establishing the conservancy district under Cause No. 75-PCC-5 and so that Nature Works Conservancy District may comply with requirements of 327 IAC 15-13.

## B. Purpose

The Board of Directors of the Nature Works Conservancy District hereby declares that the purpose of this Ordinance is to establish minimum erosion and sediment control requirements to protect and safeguard the general health, safety, and welfare of the public by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other land altering activity which disturbs or breaks the topsoil or otherwise results in the movement of earth within the defined boundaries of the District.

## ARTICLE II DEFINITIONS

For the purpose of this Ordinance, certain terms used herein shall be defined as set forth below:

**BUILDING PERMIT** means a permit issued by the Porter County Plan Commission for the construction, erection, or alteration of a structure or building.

**CERTIFY or CERTIFICATION** means formally attesting that the specific inspections and tests where required have been performed, and that such tests comply with the applicable requirements of this Ordinance.

**DEVELOPED or DEVELOPMENT** – A land alteration that requires, pursuant to state law or local Ordinance, the approval of a site plan, plat, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the construction of land or the erection of buildings or structures; provided, however, that for purposes of this Ordinance only, developed or development shall not include the actual construction of, or an addition, extension or modification to, an individual single-family or a two-family detached dwelling.

**DEVELOPMENT SITE** – Any land that is being or has been developed, or that a developer proposes for development.

**DISTRICT** means the Nature Works Conservancy District.

**DRAINAGEWAY** – The area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

**EROSION** means the wearing away of the land surface by the action of wind, water, gravity, or a combination thereof.

**EXCAVATION** means any act by which organic matter, earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.

**EXISTING GRADE** means the vertical location of the existing ground surface prior to excavation or filling.

**FILL** means any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by man to a new location and shall include the conditions resulting therefrom.

**FINAL GRADE** means the vertical location of the ground or pavement surface after the grading work is completed in accordance with the site development plan.

**GRADING** means excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

**IDEM** means the Indiana Department of Environmental Management.

**LAND ALTERATION** Any action taken relative to land which either:

- (a) Removes the natural ground cover;
- (b) Changes the contour; or
- (c) Increases the runoff rate; or
- (d) Changes the elevation; or
- (e) Decreases the rate at which water is absorbed; or
- (f) Changes the drainage pattern; or
- (g) Creates or changes a drainage facility; or
- (h) Involves construction, enlargement or location of any building on a permanent foundation; or
- (i) Creates an impoundment.

Land alteration includes (by way of example and not of limitation) terracing, grading, excavating, constructing earthwork, draining, installing drainage tile, filling and paving.

**NATURAL DRAINAGE** means channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

**PARCEL** means all contiguous land in one ownership.

**PERMITTEE** means any person to whom a site development permit is issued.

**PERSON** means any individual, firm or corporation, public or private, the State of Indiana and its agencies or political subdivisions, and the United States of America, its agencies and instrumentalities, and the agent, servant, officer, or employee of any of the foregoing.

**REMOVAL** means cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.

SEDIMENT means matter which settles to the bottom of a stream, lake in or along a drainageway.

SEDIMENTATION means the deposition or accumulation of sediment.

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

SITE DEVELOPMENT means altering terrain and/or vegetation and constructing improvements.

SITE DEVELOPMENT PERMIT means a permit issued by the District for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

STRIPPING means any activity, which removes the vegetative surface cover including tree removal, clearing, and storage or removal of topsoil.

VACANT means land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

### ARTICLE III GENERAL PRINCIPLES

It is the objective of this Ordinance to control soil erosion and sedimentation caused by development activities within the District. Measures taken to control erosion and sedimentation should be adequate to assure that sediment is not transported from the site by a storm event as adopted by ARTICLE V of this Ordinance. The following principles shall apply to all development activities within the District and to the preparation of the submissions required under ARTICLE IV of this Ordinance.

1. Development should be related to the existing topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided wherever possible, and natural contours should be followed as closely as possible.
2. Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to natural watercourses should be left unaltered wherever possible.
3. The smallest practical area of land should be exposed for the shortest practical time during development.
4. Sediment basins, debris basins, desilting basins, or silt traps or filters should be installed and maintained to remove sediment from runoff waters from land altering activity or development.
5. The selection of erosion and sedimentation control measures should be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs, and benefits involved.

6. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.
7. Provisions should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainageways should be designed so that their final gradients and the resultant velocities of discharge will not create additional erosion.
8. Permanent vegetation and structures should be installed as soon as practical during development.
9. Post construction measures should be considered for their ability to provide long term reduction in associated pollutant loading of the waterways.

#### ARTICLE IV SITE DEVELOPMENT PERMIT

##### A. Permit Required

In each instance that an owner or developer of real estate within the boundaries of the District is required to obtain subdivision plat approval from the Porter County Plan Commission, said owner or developer of real estate must also obtain a site development permit from the District.

1. The requirements under this Ordinance apply to all persons who:
  - a. do not obtain an individual NPDES permit under 327 IAC 15-2-6;
  - b. meet the general permit rule applicability requirements under 327 IAC 15-2-3;
  - c. are involved in construction activity, except operations that result in the land alteration of less than one (1) acre of total land area as determined under subsection 5 and are not part of a larger common plan of development or sale.
2. For off-site construction activities that provide services (i.e. road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.
3. For an individual lot where land alteration is expected to be one (1) acre or more and the lot lies within a project site permitted under this Ordinance, the individual lot owner shall:
  - a. Complete his/her own notice of intent letter; and
  - b. Ensure that a sufficient construction plan is completed and submitted in accordance with Section C of this ARTICLE.
4. For an individual lot where the land alteration is less than one (1) acre and the lot lies within a project site permitted under this Ordinance, the individual lot operator shall be in accordance with the following:
  - a. Comply with:
    - i. the provisions and requirements of the plan developed by the project site owner; and
    - ii. Section B of ARTICLE V of this Ordinance.

- b. Does not need to submit a notice of intent letter and construction plans.
5. Multi-lot project sites are regulated by this Ordinance in accordance with the following:
- a. A determination of the area of land alteration shall be calculated by adding the total area of land alteration for improvements such as roads, utilities, or common areas, and the expected total alteration on each individual lot, as determined by the following:
- i. 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 alteration must be used as the expected lot alteration.
  - ii. 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 altered.
  - iii. To calculate lot alteration on all other types of project sites, such as industrial and commercial project sites, the following apply:
    - Where lots are one (1) acre or greater in size, a minimum of one (1) acre of land alteration must be calculated as the expected lot alteration.
    - Where the lots are less than one (1) acre in size, the total lot must be calculated as being altered.
- b. For purposes of this Ordinance, strip developments:
- i. Are considered as one (1) project site; and
  - ii. Must comply with this Ordinance;  
unless the total combined alteration on all individual lots is less than one (1) acre and is not part of a larger common plan of development or sale.
6. Submittal of a notice of intent and construction plans is not required for construction activities associated with a single-family residential dwelling altering less than one (1) acre when the dwelling is not part of a larger common plan of development or sale.

#### B. Exceptions

Even in those instances where a site development permit is not required under ARTICLE IV, Section A of this Ordinance, no person shall commence or perform any grading, stripping, excavating, or filling of land without complying with the applicable standards and requirements for control of soil erosion and sedimentation as contained in ARTICLE V of this Ordinance, as well as implement necessary erosion and sedimentation control measures to satisfy the general principles contained in ARTICLE III of this Ordinance.

A permit shall not be required for any of the following:

1. Development of a site of less than 1 acre upon which no more than 1 residential structure is to be built, or of less than 1 acre upon which no more than 1 commercial or industrial

structure is to be built; provided that the person responsible for any such development shall implement necessary erosion and sedimentation control measures to satisfy the principles set forth in ARTICLE III of this Ordinance, and the District reserves the right to require such site development techniques as will insure satisfactory erosion and sedimentation control at such locations;

2. Agricultural use of land, including the implementation of conservation measures included in a farm conservation plan approved by the Soil and Water Conservation District, and including the construction of agricultural structures;
3. Forest harvesting activities;
4. Installation, renovation, or replacement of a sewer line, waterline, or septic system to serve an existing dwelling or structure pursuant to the prior approval of same by the Porter County Board of Health.

#### C. Application for Permit

The project site owner has the following responsibilities:

1. Complete a sufficient notice of intent letter per 327 IAC 15-5-5 and 327 IAC 15-5-6.
2. Ensure that a sufficient construction plan is completed and submitted in accordance with 327 IAC 15-5-6 and 327 IAC 15-5-6.5
3. Ensure compliance with this Ordinance and 327 IAC 15-5 during:
  - a. The construction activity; and
  - b. Implementation of the construction plan.
4. Notify the District with a sufficient notice of termination letter.
5. Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this Ordinance and the approved construction plan.

#### D. Submissions

The NOI copy and the construction plan including erosion and sediment control measures are to be submitted to the District at:

Nature Works Conservancy District  
1805 Burlington Beach Road  
Valparaiso, Indiana 46383

#### E. Bonds

The applicant may be required to file with the District a faithful performance bond or bonds, letter of credit, or other improvement security satisfactory to the Board of Directors of the District in an amount deemed sufficient by the Board of Directors of the District to cover all costs of improvements, landscaping, maintenance of improvements and landscaping for such period as specified by the Board of Directors of the District, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

#### F. Review and Approval

Each application for a site development permit shall be reviewed and acted upon according to the following procedures:

1. Plans, specifications and review and inspection fees shall be received by the District for preliminary review by their qualified representative. Upon preliminary review the District shall determine:
  - a. that the submittal is complete and sufficient pursuant to ARTICLE V of this Ordinance and direct the specific review of the submittal; or
  - b. that the submittal is deficient and lacks information pursuant to ARTICLE V of this Ordinance and therefore can not be adequately reviewed; at which time
    - i. the developer will receive written notice of those specific deficiencies of the submittal; and / or
    - ii. be invited to meet with the District or its qualified representative to discuss specific deficiencies of the submittal.
2. Plan review shall be carried out within 28 days of a complete and sufficient submittal.
3. Upon completion of a review the permittee shall be notified in writing that the submitted plans and specifications:
  - a. fulfill the requirements of this Ordinance and therefore the site development permit is approved as qualified by the permit; or
  - b. do not meet the requirements of this Ordinance and therefore does not warrant the issuance of a site development permit.

#### G. Appeals

The applicant, or any person or agency which receives notice of the filing of the application, may appeal the decision of the Chairman of the Board of Directors as provided in paragraph F(3) of this ARTICLE IV, to the Full Board of Directors of the District. Upon receipt of an appeal, the Full Board of Directors of the District shall schedule and hold a public hearing, after giving 15 days' notice thereof. The Board of Directors of the District shall give such notice of such public hearing as it deems necessary and appropriate. The Board of Directors of the District shall hear evidence at such hearing and render a decision within thirty (30) days after the hearing. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands, any comprehensive watershed management plans, or the use of any retention facilities; possible situation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil or rock which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.



#### H. Retention of Plans

Plans, specifications, and reports for all site developments shall be retained in original form or on microfilm by the District.

### ARTICLE V OPERATION STANDARDS AND REQUIREMENTS

#### A. Applicability

All grading, stripping, excavating, and filling which is subject to the permit requirements of this Ordinance, and any grading, stripping, excavating, and filling which is exempted from the permit requirement by paragraph B(1) of ARTICLE IV, shall be subject to the applicable standards and requirements set forth in this ARTICLE V.

#### B. Responsibility

The permittee shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the District or its officers or agents will not be made liable for such damage, by (1) issuance of a permit under this Ordinance, (2) compliance with the provisions of that permit or with conditions attached to it by the District, (3) failure of the District officials to observe or recognize hazardous or unsightly conditions, (4) failure of District officials to recommend denial of or to deny a permit, or (5) exemptions from the permit requirements of this Ordinance.

#### C. Procedures and Standards Adopted by Reference

- 327 IAC 15-5-7 for general requirements on stormwater quality control
- 327 IAC 15-5-7.5 for general requirements individual building lots within a permitted project
- The Indiana Department of Natural Resource's *Indiana Handbook for Erosion Control* or the updated *Indiana Stormwater Quality Manual*.

#### D. Inspection

1. The District or its designated representative may inspect any project site involved in construction activities regulated by this Ordinance at reasonable times. The District or its designated representatives may make recommendations to the project site owner or their representative to install appropriate measures beyond those specified in the storm water pollution prevention plan to achieve compliance.

2. All persons engaging in construction activities on a project site shall be responsible for complying with the storm water pollution prevention plan and the provisions of this Ordinance.
3. The District shall investigate potential violations of this Ordinance to determine which person may be responsible for the violation. The District shall, if appropriate, consider public records of ownership, building permits, and other relevant information, which may include site inspections, storm water pollution prevention plans, notices of intent, and other information related to the specific facts and circumstances of the potential violation.
4. If remaining stormwater quality measures are not properly maintained by the person occupying or owning the property, the District may pursue enforcement against that person for correction of deficiencies.
5. Construction plans and supporting documentation associated with the quality assurance plan must be made available to the District or its designated representative within forty-eight (48) hours of such request.

#### E. Special Precautions

1. If at any stage of the grading of any development site the District determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, watercourse or drainage structure, the District may require, as a condition of allowing the work to be done, that such reasonable special precautions to be taken as is considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.
2. Where it appears that storm damage may result because the grading on any development site is not complete, work may be stopped and the permittee required to install temporary structures or take such other measures as may be required to protect adjoining property or, the public safety. On large developments or where unusual site conditions prevail, the District may specify the time of starting grading and time of completion or may require that the operations be conducted in specific stages so as to insure completion of protective measures or devices prior to the advent of seasonal rains.

#### F. Amendment of Plans

Major amendments of the site development or erosion and sedimentation control plans shall be submitted to the District and shall be processed and approved or disapproved in the same

manner as the original plans. Field modifications of a minor nature may be authorized by the District by written authorization to the permittee.

#### G. Project Termination

1. The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of storm water quality measures that are to remain on the project site.

2. The project site owner shall submit a notice of termination (NOT) letter to the District in accordance with the following:

a. Except as provided in subdivision b, the project site owner shall submit an NOT letter when the following conditions have been met:

- i. All land altering activities, including construction on all building lots, have been completed and the entire site has been stabilized.
- ii. All temporary erosion and sediment control measures have been removed.

The NOT letter must contain a verified statement that each of the conditions in this subdivision has been met.

b. The project site owner may submit an NOT letter to obtain early release from compliance with this Ordinance if the following conditions are met:

- i. The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre.
- ii. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.
- iii. All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.
- iv. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.
- v. All permanent storm water quality measures have been implemented and are operational.

3. Following acceptance of the NOT letter and written approval from the District for early release under subsection 2, the project site owner shall notify all current individual lot owners and all subsequent individual lot owners of the requirements to:

- a. Install and maintain appropriate measures to prevent sediment from leaving the individual building lot; and
- b. Maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.

4. The District or other entity designated by the District or IDEM may inspect the project site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT letter requirements. If the inspecting entity finds that the project site owner has sufficiently filed an NOT letter, the entity shall forward

notification to IDEM. Upon receipt of the verified NOT letter by IDEM and receipt of written approval from IDEM, the project site owner shall no longer be responsible for compliance with this Ordinance.

5. After a verified NOT letter has been submitted for a project site, maintenance of the remaining storm water quality measures shall be the responsibility of the individual lot owner or occupier of the property.

#### H. Expiration of Permit

A site development permit is granted for a period of five (5) years from the date coverage commences. Once the five (5) year permit term duration is reached, the site development permit will be considered expired, and, as necessary for construction activity continuation, a new NOI letter would need to be submitted. To obtain renewal of coverage, the information required under ARTICLE IV, Section C of this Ordinance must be submitted to the District ninety (90) days prior to the termination of coverage, unless the District determines that a later date is acceptable. Coverage under renewal NOI letters will begin on the date of expiration from the previous five (5) year permit term.

### ARTICLE VI ENFORCEMENT

#### A. Stop-Work Order; Revocation of Permit

In the event that any person holding a site development permit pursuant to this Ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the District may suspend or revoke the site development permit.

#### B. Violation and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Ordinance. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this Ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than One Thousand dollars and no cents (\$1,000) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Ordinance shall be required to bear the expense of such restoration.

### C. Bond Forfeiture

If, through inspection, it is determined that a person engaged in land-altering activities has failed to comply with the approved plan a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-altering activity fails to comply within the time specified, he shall be deemed in violation of this Ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post bond under the provisions of ARTICLE IV Section E. If a bond was required as a condition of the permit, the District may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

## ARTICLE VII PERMIT FEES

### A. Application and Inspection fees

The fees for the required permit shall be paid pursuant to the schedule set forth in the table below:

#### -TABLE 1- EROSION AND SEDIMENT CONTROL PLAN REVIEW & INSPECTION FEES (UTILITIES)

Per lineal foot disturbed.....	\$ .25
Minimum fee.....	\$285.00

#### (MULTI-FAMILY, COMMERCIAL, AND INDUSTRIAL)

Submittal requiring no more than a 4 hour review period.....	\$500.00
Additional review.....	Billed at Hourly Rate of \$125 per hour

#### (SINGLE FAMILY RESIDENTIAL ON SINGLE LOT)

Submittal requiring no more than a 2 hour review period.....	\$250.00
Additional review.....	Billed at Hourly Rate of \$125 per hour

## (DEMOLITION ONLY)

Single family residential.....\$ 125.00  
All Others.....\$ 250.00

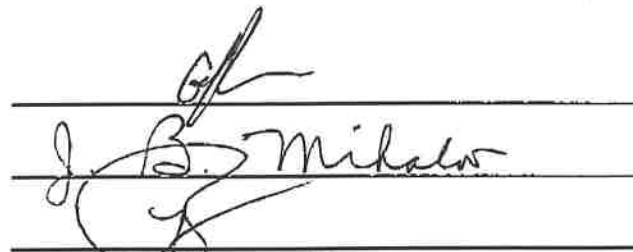



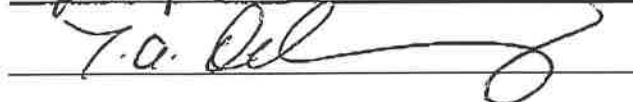
## (AMENDMENTS TO PLANS)

Single family residential.....\$ 125.00  
All Others.....Billed at Hourly Rate of \$125 per hour

ARTICLE VIII  
ADOPTION OF ORDINANCE

This Ordinance shall be in full force and effect 30 days after its final passage and adoption. All prior Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

PASSED AND ADOPTED by the Board of Directors of the Nature Works Conservancy District  
this 20 day of December, 2008.

  
J. B. Milato  
  
Timothy Bunt  
  
Stan P.  
  
K. Miller  
  
T. A. Del

ATTEST:

  
Cheryl C. Whitman