



MEMO FROM COUNCIL OFFICE:

To: Members of the Common Council

From: Stephen Lucas, Council Administrator/Attorney

Date: April 26, 2024

Re: Ordinance 2024-08 - To Enact Title 13 of the Bloomington Municipal Code Entitled “Stormwater”

Synopsis

This ordinance adopts Title 13 of the Bloomington Municipal Code, entitled “Stormwater”. This title incorporates all sections of stormwater regulations from Title 10 and introduces new stormwater permitting, bonding, and regulation in compliance with state requirements set forth in two general permits issued by the Indiana Department of Environmental Management in 2021, which apply statewide to all Municipal Separate Stormwater Sewer Systems, of which the City of Bloomington by and through its Utilities Department is one. This title establishes a Stormwater Management Permit, sets forth requirements for application of said permit, as well as requirements for bonding in association with said permit. This title establishes additional requirements for erosion and sediment control for land disturbing activities in compliance with the general permits. This title also sets forth green infrastructure requirements for development within the City of Bloomington and requirements for the maintenance of stormwater management features within the City of Bloomington. This title establishes regulation and enforcement measures, including fee structure, notices of violation procedure, available remedies, and an administrative appeal process. In addition to complying with updated state permits, Title 13 takes steps to address and mitigate the increased social cost of climate change by establishing measures designed to reduce the flooding impacts of severe storm events throughout the City of Bloomington.

Relevant Materials

- Ordinance 2024-08
- Exhibit A – Utilities Service Board Resolution
- Staff Memo from Assistant City Attorney Chris Wheeler

Summary

Ordinance 2024-08 would add a new title 13 to Bloomington Municipal Code (“BMC”) entitled “Stormwater”. This ordinance represents many months of work by multiple city departments to prepare an update to local code in the wake of changes to state stormwater regulations. The memo provided by Assistant City Attorney Chris Wheeler explains the need for this ordinance, which follows from the state moving from a stormwater permitting scheme by administrative rule (through Indiana Administrative Code provisions) to a Master General Permit scheme (involving local regulation and permitting processes). The city’s Utilities Service Board has reviewed and recommended adoption of this ordinance.



City of Bloomington Indiana

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The Indiana Department of Environmental Management (“IDEM”) explains that municipal separate storm sewers (“MS4s”) are defined as a conveyance or system of conveyances owned by a state, city, town, or other public entity that discharges to waters of the United States and are designed or used for collecting or conveying stormwater. Regulated conveyance systems include roads with drains, municipal streets, catch basins, curbs, gutters, storm drains, piping, channels, ditches, tunnels, and conduits. It does not include combined sewer overflows and publicly owned treatment works.

More information about MS4s is available through IDEM at:

<https://www.in.gov/idem/stormwater/municipal-separate-storm-sewer-systems-ms4/>.

More information about the transition to this Master General Permit approach is available on IDEM’s website at: <https://www.in.gov/idem/stormwater/resources/stormwater-program-transition-to-master-general-permits/>.

In summary, Ordinance 2024-08:

- moves most existing local stormwater regulations to a new Title 13 and incorporates additional regulations based on the state’s new permitting scheme;
- shifts all regulation of stormwater management and regulatory concerns to the Utilities Department; and
- sets July 1, 2024 as the effective date, meaning projects submitted to the Utilities Department for review on or after July 1 would be required to be permitted under the new provisions.

Adoption of Ordinance 2024-08 would trigger the need to make corresponding code updates to BMC Title 10 in order to reflect the relocation of stormwater provisions from Title 10 to the new Title 13. Ordinance 2024-09 has been proposed to accomplish this.

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