

**ORDINANCE 2025 - \_\_\_\_**

**AN ORDINANCE TO AMEND ORDINANCE NO. 2019-10, PERTAINING TO THE STORM WATER MANAGEMENT USER FEES AND RELATED DEFINITIONS IN TITLE V: PUBLIC WORKS, CHAPTER 53: STORM WATER MANAGEMENT, SUBCHAPTER 100: ILLEGAL DISCHARGE AND ELIMINATION PROGRAM GENERAL PROVISIONS, OF THE TOWN OF LOWELL, INDIANA CODE OF ORDINANCES**

WHEREAS, The Town of Lowell, owns and operates a municipal separate storm sewer system ("MS4");

WHEREAS, The Town Council of the Town of Lowell created the Town's Department of Storm Water Management and delegated the responsibility of overseeing the operation, maintenance, and repair of the Town's MS4 in compliance with all applicable federal, state, and local laws to the Town's Storm Water Management Board, including the responsibility of advising the Town Council on the implementation of federal, state and local laws concerning storm water management and identifying solutions to flooding concerns in the Town of Lowell; and

WHEREAS, Indiana Code §§ 8-1.5-3-4 and 8-1.5-5-6 enable the Town's Storm Water Management Board to:

1. Hold hearings following public notice;
2. Make findings and determinations;
3. Install, maintain and operate a storm water collection and disposal system;
4. Make all necessary or desirable improvements of the grounds and premises under its control;
5. Hire professionals or expert personnel to conduct investigations and studies when required for the operation of the utility;
6. Recommend to the Council reasonable and just rates and charges for services to the patrons of the Town's MS4; and

WHEREAS, Indiana Code § 8-1.5-5-7 authorizes the Town's Storm Water Management Board, upon approval by the Town Council, to assess and collect user fees from all eligible properties identified in an Ordinance and located within the Town of Lowell; and

WHEREAS, the Town's Storm Water Management Board conducted an investigation into the need for an increase in user fees to effectively operate and maintain the Town's MS4, including holding an appropriately noticed public hearing on February 6, 2025, and has identified the need for an increase in user fees to properly and comprehensively deal with storm water management in the Town; and

WHEREAS, after appropriate investigation and study, including input from the public, the Board determined that it is necessary for the public health and welfare, and to provide for public utility and benefit to the Town, to construct, reconstruct, repair and install capital improvements to the Town's MS4 in order to improve storm and surface water drainage within the Town; and

WHEREAS, the Town's Storm Water Management Board has recommended, and the Town Council finds that increased funding is needed to implement programs to comply with unfunded mandates from federal and state authorities relating to the management and regulation of the Town's MS4 and its related components; and

WHEREAS, the Council has determined that it is necessary for increased funding to be provided to properly budget and support the operation, repair and maintenance of the Town's MS4 and to amend applicable sections of the Town Code regarding storm water management in the Town.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Lowell, Indiana that Title V: Public Works, Chapter 53: Storm Water Management, Subchapter 100: Illegal Discharge and Elimination Program General Provisions, of the Town of Lowell, Indiana Code of Ordinances shall be amended as follows:

1. Chapter 53 § 103 is hereby deleted in its entirety and replaced with the following:

### **§ 53.103 DEFINITIONS.**

For purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**APPROVED PLANS.** Plans approved by the Lowell Storm Water Management Board according to a permit and plan review by the Storm Water Management Board which will govern all improvements made within the Town of Lowell that require storm water facilities or changes or alterations to existing storm water facilities.

**AUTHORIZED ENFORCEMENT AGENCY.** The Lowell Storm Water Management Board, through its Lowell MS4 Operator or his or her designees.

**BEST MANAGEMENT PRACTICES (BMPs).** Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water runoff. The term 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.

**BOARD.** The Lowell Storm Water Management Board of Directors established pursuant to Indiana Code 8-1.5-5 under Section 34.45 of the Town of Lowell Municipal Code.

**CLEAN WATER ACT.** The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.

**CODE.** Town of Lowell Municipal Code.

**CONTIGUITY.** Any entity's proximity to a designated MS4 area in such a way that it allows for direct discharges of storm water runoff into the regulated MS4 conveyance.

**CONVEYANCE.** Any structural process for transferring storm water between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

**CONSTRUCTION ACTIVITY.** Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. These activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

**COUNTY REGULATED DRAIN.** Part of the storm water conveyance system under the jurisdiction of the Lake County Drainage Board, including certain ditches, tiles, and sewers.

**DESIGN STORM.** A rainfall event of specified size and return frequency that is used to calculate the runoff volume from an area and the capacity and peak discharge rate of a BMP.

**DETENTION.** The temporary storage of storm water runoff in a basin, pond or other structure to control the peak discharge rate to the MS4 by holding the storm water for a period of time and controlling the outflow.

**DIRECTOR.** A person appointed by the Lowell Town Council to undertake the tasks and responsibilities set forth by this chapter, who shall serve at the discretion of the Council.

**DISPOSAL.** The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

**DRAIN.** Any separated storm sewer, tile, ditch, stream, swale or other storm water conveyance, channel or conduit.

**EXEMPT DRAIN.** Drains that are regulated by the Lake County Drainage Board.

**GARBAGE.** All animal solid, vegetable solid, and semi-solid wastes resulting from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

**HAZARDOUS WASTE.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLICIT CONNECTION.**

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyance which allows any non-storm water discharge including sewage, process wastewater, effluent, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains, washing machines, bathtubs, and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by any enforcement

agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE.** Any discharge to an MS4 conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs.

**IMPERVIOUS AREA.** Real property that has been paved and/or covered with buildings and impervious materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop and compacted gravel, such that the natural infiltration of water into the soil is prevented.

**INDUSTRIAL ACTIVITY.** An activity subject to NPDES industrial permits as defined in 40 C.F.R. pt. 122.26(b)(14).

**INFILTRATION.** A process by which storm water percolates into the ground.

**LOT/PARCEL.** A part or portion of land having a distinct legal description that is formally set forth in a conveyance instrument.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4).** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, swales or storm drains):

- (1) owned or operated by a city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law);
- (2) Designed or used for collecting, conveying or otherwise managing or treating storm water;
- (3) Which is not a combined sewer; and
- (4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT.** A permit issued by the EPA or the Indiana Department of Environmental Management that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.

**NON-STORM WATER DISCHARGE.** Any discharge to the storm drains system that is not composed entirely of storm water.

**PEAK DISCHARGE.** The maximum rate of flow of water passing a given point during or after a rainfall event.

**PERSON.** Any individual, association, organization, partnership, firm, corporation or

other entity recognized by law and acting as either the owner or as the owner's agent.

**POLLUTANT.** Anything which causes or contributes to pollution. *Pollutants* may include, but are not limited to: paints, varnishes, solvents; oil and automotive fluids; non-hazardous liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles or accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, effluent, fecal coliform, E. coli, 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.

**PREMISES.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**PROPERTY CLASS CODE.** A three-digit land use code number generated from the Lake County Assessor's Office used to differentiate properties' use and primary purpose. For purposes of the Town's Storm Water Utility User Fee, this property class code will be used to determine each parcel's monthly user fee.

**PUBLIC STORM WATER FACILITIES.** The various storm water and drainage works under the control and/or ownership of the Town, County, State or Federal Government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, swales or other structural components and equipment designed to transport, move, hold, treat or regulate storm water.

**RETENTION.** The holding of storm water runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

**STORM DRAINAGE SYSTEM.** Publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention, detention and other drainage structures.

**STORM SEWER.** A sewer designed or intended to convey only storm water, surface runoff and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry storm water only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a stream, lake, watercourse, ditch or combined sewer.

**STORM WATER.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from that precipitation.

**STORM WATER POLLUTION PREVENTION PLAN.** A document which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify the source of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters.

**STORM WATER SYSTEM.** All constructed facilities, structures and watercourses

under the ownership and/or control of the Town and/or the Storm Water Management Board, used for collecting, storing and conducting storm water to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, swales, retention and detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Lake County Drainage Board or under ownership other than the Town.

**STORM WATER UTILITY USER FEE:** A charge imposed on users of the Town's Public Storm Water Facilities and Storm Water System.

**STORM WATER UTILITY CUSTOMER/USER.** The owner of a lot or parcel of land located within the Town of Lowell.

**SUBDIVISION GROUP.** All of the parcels of land within a platted development.

**TLSWMD.** Town of Lowell Storm Water Management Department.

**WASTEWATER.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

2. Chapter 53 § 106 (A), only, is hereby deleted in its entirety and replaced with the following:

**§ 53.106 STORM WATER MANAGEMENT USER FEE**

(A) Per **Ordinance 2025 -** , adopted **\_\_\_\_\_**, **2025**, there is re-established and re-enacted a Town Storm Water Management User Fee which shall be assessed against each and every parcel of real estate within the boundaries of the Town based on the schedule below:

<b>Property Class Codes</b>	<b>Description</b>	<b>Monthly Fee</b>
100 - 199	Agriculture	\$ 8.40
300	Industrial Vacant Land	\$ 8.40
330 - 399	Industrial	\$ 105.00
400	Commercial Vacant Land	\$ 8.40
401	Commercial Apartment, 4-19 Units	\$ 45.00
402 - 499	All commercial, including apartment buildings over 19 units	\$ 105.00
500 - 509	Residential Vacant Land	\$ 3.40

510 - 545	Residential Single Family, Duplex and Three Unit including excess acreage	\$ 15.00
550	Residential Condo	\$ 15.00
598	Residential Leased Land	\$ 15.00
599	Other Residential Structure	\$ 15.00
650	Board of Education	\$ 57.90
600, 610, 620, 621, 622, 630, 640, 645, 660, 661, 662, 665, 669	Federal, State, County, Municipal and Other Exempt Properties	\$ 19.30
680, 685, 686	Charitable, Religious and Church	\$ 45.00
690	Cemetery	\$ 8.40
699	Other Exempt Properties	\$ 15.00
820	Heat and Power Utilities	\$ 105.00
830 - 841	Railroad and Pipeline	\$ 8.40
850 - 871	Sewage, Phone and Water Utilities	\$ 105.00

\* \* \* \* \*

This Ordinance shall be in full force and effect upon its passage by the Lowell Town Council and publication as required by law.

**DULY ORDAINED and APPROVED** by the Town Council of the Town of Lowell, Lake County, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2025 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

**TOWN OF LOWELL, LAKE COUNTY, INDIANA  
BY ITS TOWN COUNCIL:**

\_\_\_\_\_  
Todd Angerman, President

\_\_\_\_\_  
Mike Gruszka, Vice President

\_\_\_\_\_  
John Alessia, Council Member

\_\_\_\_\_  
Shane Tucker, Council Member

\_\_\_\_\_  
John Yelkich, Council Member

ATTEST:

\_\_\_\_\_  
Jill Murr, Clerk-Treasurer

Approved by the Executive this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Todd Angerman, President

ATTEST:

\_\_\_\_\_  
Jill Murr, Clerk-Treasurer