

**FLOYD COUNTY RESOLUTION 2004- XVIII
A RESOLUTION REFERRING PROPOSED AMENDMENT TO
THE FLOYD COUNTY ZONING ORDINANCE FOR CONSIDERATION
BY THE FLOYD COUNTY PLAN COMMISSION**

WHEREAS, on the 5th day of September, 1967, the Board of Commissioners of the County of Floyd duly adopted Ordinance A67-4, being the Floyd County Zoning Ordinance, which ordinance has been amended and modified, from time to time; and

WHEREAS, the Board of Commissioners of the County of Floyd (Board) is desirous of further amending said ordinance by the addition thereto of an Article pertaining illicit storm water discharge and an Article pertaining to construction site runoff, drafts of each proposed Article being appended hereto an made a part of this resolution; and

WHEREAS, pursuant to the provisions of IC 36-7-4-607, if a proposed amendment to the zoning ordinance originates with the county executive, it must be referred to the plan commission for hearing, consideration, and recommendation prior to any final action thereon; and

WHEREAS, the Board is desirous by this resolution of referring the proposed Articles to the Floyd County Plan Commission for hearing, consideration, and recommendation, all as provided by applicable statute, rule, and regulation.

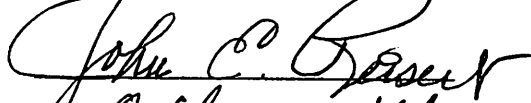

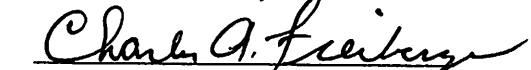
NOW THEREFORE:

BE IT RESOLVED, that the recitals set forth herein be incorporated herein an made a part of this resolution.

BE IT FURTHER RESOLVED that the proposed Articles amending Floyd County Ordinance A67-4 be, and the same hereby are, referred to the Floyd County Plan Commission, pursuant to IC 36-7-4 *et seq.*, for hearing, consideration and recommendation.

SO RESOLVED, this 27th day of September 2004.

BOARD OF COMMISSIONERS
OF THE COUNTY OF FLOYD

ATTEST:

FLOYD COUNTY AUDITOR

FLOYD COUNTY ORDINANCE 2004-

AN ORDINANCE REGULATING THE ILLICIT DISCHARGE OF STORMWATER

WHEREAS, on the 5th day of September, 1967, the Board of Commissioners of the County of Floyd duly adopted Ordinance A67 -4, being the Floyd County Zoning Ordinance, which ordinance has been amended and modified, from time to time; and

WHEREAS, the Board of Commissioners of the County of Floyd is desirous of further amending said ordinance in the particulars as hereinafter set forth.

NOW THEREFORE:

BE IT ORDAINED that Floyd County Ordinance A67-4 be, and the same hereby is, amended by the addition of the following Article:

Section 1 - Title, Purpose and General Provisions

Section 1.1 - Title

1.1.1 This article shall be known as the "Storm Water Illicit Discharge Control Ordinance" of Floyd County, Indiana and may be so cited.

Section 1.2 - Jurisdiction

1.2.1 The Storm water Illicit Discharge Control Ordinance shall govern all properties and controlled activities within the jurisdictional boundaries of the Floyd County Plan Commission.

Section 1.3 - Recitals

1.2.1 Whereas, the community's municipal separate storm sewer system (MS4) receives discharges that are not composed entirely of storm water runoff causing increased non-point source pollution and receiving water degradation.

1.2.2 Whereas, surface water runoff can carry pollutants into receiving waters, and uncontrolled storm water drainage and/or discharges may have significant adverse impacts on the health, safety and welfare of the citizens of Floyd County, Indiana, the potential impacts of these pollutants and pollution may include:

1.2.2.1 Adverse impacts to public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other land and water uses;

1.2.2.2 Changing natural ecosystems through the destruction of habitat, and the loss of plant and animal life;

- 1.2.2.3 Posing significant health risks through an increase in bacteria and toxic materials;
- 1.2.2.4 Accelerating eutrophication of receiving waters by introducing excessive nutrients;
- 1.2.2.5 Increasing metal deposits creating toxicity for aquatic life;
- 1.2.2.6 Reducing in-stream oxygen levels because of oil, grease and organic matter; and
- 1.2.2.7 Affecting animal and plant life, adversely, due to changing temperatures of receiving waters.

1.2.3 Whereas, the adverse water quality consequences described above may result in substantial economic losses. Potential losses include, but are not limited to, increased drinking water and wastewater treatment costs and diminished property values, as well as state and federal fines associated with water quality violations.

1.2.4 Whereas, every parcel of property, both private and public, either uses or benefits from Floyd County's storm water system.

1.2.5 Whereas, current and anticipated growth will contribute to and increase the need for an effective storm water system.

Section 1.4 - Objectives

1.3.1 Protection of short-term and long-term public health, safety and general welfare will be achieved by:

- 1.3.1.1 Providing for regulation and management of Floyd County's storm water system, including public and private facilities within Floyd County's service area;
- 1.3.1.2 Protecting, and preserving water quality and fish and wildlife habitat within Floyd County and in downstream receiving waters; and
- 1.3.1.3 Protecting those downstream from storm water quality impairment(s).

1.3.2 Compliance with state and federal storm water regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments through 2004. The objectives of these regulations include:

- 1.3.2.1 Controlling the quality of water discharged by controlling the contribution of pollutants to the storm water system by storm water discharges associated with residential, commercial and industrial activity;

- 1.3.2.2 Prohibiting illicit discharges to storm water;
- 1.3.2.3 Controlling the discharge of spills and dumping or any disposal of materials other than storm water into the storm water system.

Section 1.5 - Definitions

1.5.1 The definitions hereinafter set forth are in addition to those appearing elsewhere in Floyd County Ordinance 1967-4, all of which definitions shall be applicable in the interpretation and enforcement of this Article:

Accidental Discharge means a discharge or release prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.

Clean Water Act means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity means land disturbance activities subject to state NPDES General Construction Permits related to "Rule 13" or "Rule 5" or local permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Floyd County means and includes, for purposes of this ordinance, Floyd County, Indiana, acting through its duly appointed, qualified, and acting advisory plan commission, together with the officers, employees, attorneys, and designees of said commission.

Illicit discharge means any discharge to a Municipal Separate Storm Sewer System (MS4) that is not composed entirely of storm water except discharges pursuant to a National Pollutant Discharge Elimination System permit (other than Floyd County's NPDES storm water permit) or otherwise defined by this ordinance.

Industrial Activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the Indiana Department of Environmental Management (IDEM) under delegated authority by the United States Environmental Protection Agency (USEPA), whether the permit is applicable on an individual, group, or general area-wide basis.

Municipal Separate Storm Sewer System (MS4) means any facility designed or used for collecting and/or conveying storm water, including, but not limited to, any roads with drainage systems, highways, streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls, ditches, swales, natural and manmade or altered drainage channels, reservoirs, and other drainage structures, and which is:

- a) Owned or maintained by Floyd County;
- b) Not a combined sewer; and
- c) Not part of a publicly-owned treatment works.

Non-Storm water Discharge means any discharge to the storm drainage system that is not composed entirely of storm water.

Person means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

Pollutant means anything of a chemical component or nature which causes or contributes to pollution.

Pollution means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent.

Premises mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Responsible Party means the person causing or permitting a prohibited discharge in violation of this ordinance, or the person in control of, or having the right to control, the property or premises from which a prohibited discharge has occurred.

Standard of Practice for Residential Construction Storm water Management means a document that defines the management practices for erosion prevention, sediment control and other construction site waste management by which homebuilders may use as guidance and minimum expectations to be achieved during inspections by Floyd County. In the event that this document is not published, then the "Indiana Storm water Quality Manual" or the "Indiana Handbook for Erosion and Sediment Control in Urban Areas" developed by Indiana Department of Natural Resources (IDNR) may be used as an equivalent guide.

Storm water Runoff or Storm water means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Structural Storm water Control or Best Management Practice (BMP) means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

Undiluted Discharges means a discharge that has not been mixed with that of another source such as another septic tank.

Waters of the State means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Indiana which are not entirely confined and retained completely upon the property of a single Person.

Section 2 - Authority and Right of Entry

- 2.1 Floyd County shall have right-of-entry on or upon the property of any Person subject to this ordinance and any permit/document issued hereunder. The County shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this ordinance.
- 2.2 Where a property, site or facility has security measures in force which require proper identification and clearance before entry, the Responsible Party shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, Floyd County will be permitted to enter without delay.
- 2.3 Access by Floyd County shall include the right to erect upon the property such devices as are necessary to conduct sampling and/or metering of storm water operations or discharges.
- 2.4 Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly upon request of, and at no cost to, Floyd County.
- 2.5 Floyd County may inspect the facilities of any person in order to ensure compliance with this ordinance. Except in an emergency relating directly to the health, safety, and welfare of the public, an inspection shall be made only after reasonable notice to and consent by the responsible party. However, If such consent is refused, denied, or not promptly tendered, Floyd County may seek appropriate judicial orders permitting such entry.
- 2.6 Floyd County has the right to determine and impose inspection schedules necessary to enforce the provisions of this article. Inspections may include, but are not limited to, the following:
 - 2.6.1 An initial inspection prior to storm water management plan approval;
 - 2.6.2 An inspection prior to burial of any underground drainage structure;
 - 2.6.3 Erosion control inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system;
 - 2.6.4 A finish inspection when all work, including installation of storm management facilities, have been completed; and
 - 2.6.5 An inspection to determine the effectiveness or operational viability of a permanent or long-term storm water quality management practice.

Section 3 - Illicit Discharges

3.1 Prohibition of illegal discharges

- 3.1.1 Pursuant to the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (MS4) Program, illicit discharges to the MS4 are defined as illegal.
- 3.1.2 Except as hereinafter provided, all non-storm water discharges into the MS4 are prohibited and declared to be unlawful.
- 3.1.3 It is unlawful for any Person to connect any pipe, open channel, or any other conveyance system that discharges into the MS4 anything except (1) storm water, or (2) unpolluted water, or (3) such other substance which is approved by Floyd County based on exemptions listed in section 3.2 below.
- 3.1.4 It is unlawful for any Person to discharge waters from residential construction activities that are not in compliance with the Standard of Practice for Residential Construction Storm water Management as approved by Floyd County.
- 3.1.5 In addition to illicit discharges, the discharge of spills and the dumping and/or disposal of materials other than storm water, including, but not limited to, industrial and commercial wastes, commercial car wash wastes, sewage, garbage, yard waste, trash, petroleum products, including used motor vehicle fluids, as well as leaf litter, grass clippings, and animal wastes into the MS4, whether directly or indirectly, is prohibited, unless authorized under a NPDES permit.

3.2 Allowable Discharges

- 3.2.1 Unless Floyd County has identified a discharge as an unacceptable source of pollutants to the "Waters of the State of Indiana", the following non-storm water discharges into the MS4 are lawful:
 - 3.2.1.0 Discharges from emergency fire fighting activities;
 - 3.2.1.1 Diverted stream flows;
 - 3.2.1.2 Rising ground waters;
 - 3.2.1.3 Uncontaminated groundwater infiltration to separate storm sewer systems (as defined by 40 CFR35.2005(20);
 - 3.2.1.4 Uncontaminated pumped ground water;
 - 3.2.1.5 Discharges from potable water sources as required for system maintenance;

- 3.2.1.6 Drinking water line flushing;
- 3.2.1.7 Air conditioning condensate;
- 3.2.1.8 Uncontaminated landscape irrigation;
- 3.2.1.9 Uncontaminated irrigation water;
- 3.2.1.10 Lawn watering;
- 3.2.1.11 Uncontaminated springs;
- 3.2.1.12 Uncontaminated water from crawl space pumps;
- 3.2.1.13 Uncontaminated water from footing drains and pumps;
- 3.2.1.14 Individual residential car washing;
- 3.2.1.15 Flows from riparian habitats and wetlands;
- 3.2.1.16 De-chlorinated swimming pool discharges;
- 3.2.1.17 Controlled flushing storm water conveyances (contained and treated by appropriate BMPs);
- 3.2.1.18 Discharges made from residential construction sites fully and completely utilizing guidance provided by "Standard of Practice for Residential Construction Storm water Management";
- 3.2.1.19 Discharges within the constraints of a National Pollutant Discharges Elimination System (NPDES) permit from the Indiana Department of Environmental Management (IDEM); and Discharges approved at the discretion of Floyd County.
- 3.2.1.20

3.3 Illegal Discharges

3.3.1 It shall be unlawful for any Person to improperly dispose of any contaminant into the MS4. Contaminants include, but are not limited to the following:

- 3.3.1.1 Trash or debris;
- 3.3.1.2 Construction materials or uncontrolled sediment; Petroleum products, including but not limited to oil, gasoline, grease, fuel oil or hydraulic fluids;
- 3.3.1.3 Antifreeze and other automotive products;
- 3.3.1.4 Metals in either particulate or dissolved form;
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- 3.3.1.6 Flammable or explosive materials;
- 3.3.1.7 Radioactive materials;
- 3.3.1.8 Batteries, including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries or mercury batteries;
- 3.3.1.9 Acids, alkalis or bases;
- 3.3.1.10 Paints, stains, resins, lacquers or varnishes;
- 3.3.1.11 Degreasers and/or solvents;
- 3.3.1.12 Drain cleaners;
- 3.3.1.13 Pesticides, herbicides or fertilizers;
- 3.3.1.14 Steam cleaning wastes;
- 3.3.1.15 Soaps, detergents or ammonia;
- 3.3.1.16 Swimming pool backwash including chlorinated swimming pool discharge;
- 3.3.1.17 Chlorine, bromine and other disinfectants;
- 3.3.1.18 Heated water;
- 3.3.1.19 Animal waste, either from domestic animals or from feeder lot operations;
- 3.3.1.20 Leakage from sanitary sewers and connections that have remained uncorrected for more than seven (7) days;
- 3.3.1.21 Recreational vehicle waste;
- 3.3.1.22 Animal carcasses;
- 3.3.1.23 Food wastes;
- 3.3.1.24 Medical wastes;
- 3.3.1.25 Bark and other fibrous materials;
- 3.3.1.26 Collected lawn clippings leaves or branches;
- 3.3.1.27 Silt, sediment or gravel;
- 3.3.1.28 Dyes, except with permission from Floyd County; Chemicals not normally found in uncontaminated water; Water from fresh concrete or that used for cleaning, finishing, and/or to expose aggregates;
- 3.3.1.29 Junk motor vehicles;
- 3.3.1.30 Leakage from solid waste disposal containers;
- 3.3.1.31 Sewage or sewage sludge;
- 3.3.1.32 Any polluted household wastewater, such as, but not limited to, laundry wash water and dishwater, except that discharged to a sanitary sewer or septic system;
- 3.3.1.33 Leakage from water lines that has remained uncorrected for seven days or more;
- 3.3.1.34 Commercial, industrial or public vehicle wash discharge;
- 3.3.1.35 Garbage or sanitary waste;
- 3.3.1.36 Dead animals or animal fecal waste;
- 3.3.1.37 Dredged or spoil material;
- 3.3.1.38 Wrecked or discarded vehicles or equipment;
- 3.3.1.39 Wash waters to the storm drain system from the cleaning of gas stations, auto repair garages or other types of auto repair facilities;
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- 3.3.1.42 Wastewater to the storm drain system from mobile auto washing, steam cleaning, mobile carpet cleaning and other such mobile commercial and industrial operations;
- 3.3.1.43 Waters from areas devoted to the repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluids or coolants;
- 3.3.1.44 Waters from storage areas for materials containing grease, oil, or hazardous materials or uncovered receptacles containing hazardous materials, grease or oil;
- 3.3.1.4 Toxic materials from paved or unpaved areas;
- 5 Discharge into the storm drain system from the washing or rinsing of restaurant mats, roof vents, grease traps, equipment or garbage bins or cans;
- 3.3.1.4 Sewage, industrial wastes, or other wastes if discharged into a well or a location that is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances which do or may affect the waters of the State; and
- 6 Any hazardous material or waste not listed above.
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3.32 It is not the intent of Floyd County, by this ordinance, to propose penalties for de minimus discharges that have no significant adverse impact on the safety, health, the welfare of the environment or the functionality of the storm water drainage/collection system, and to this end, such de minimus discharges are expressly exempted from the application of this ordinance

Section 4 - Accidental discharges

- 4.1 In the event of any discharge of a hazardous substance in amounts that could cause a threat to public drinking supplies, a spill beyond that of de minimus levels, or any other discharge that could constitute a threat to human health or the environment, the person causing the discharge or the owner or operator of the facility responsible for same or his designee (collectively, responsible party) shall give notice to Floyd County and IDEM as soon as practicable, but in no event later than of two hours after (1) discovery of the accidental discharge or (2) when the responsible party becomes aware of the circumstances of the incident.
- 4.2 If an emergency response by governmental agencies is needed, the responsible party shall call 911 immediately to report the discharge. Reports required by the Indiana Spill Rule (327 IAC 2-6.1-7), shall be made within two (2) hours of discovery, and a written report shall be provided to Floyd County within five days of the time the incident, unless this requirement is waived by Floyd County for good cause shown on a case-by-case basis. The report shall contain the following information:
 - 4.2.1 A description of the discharge,
 - 4.2.2 The exact dates and times of discharge, and

4.2.3 Steps being taken to eliminate and prevent recurrence of the discharge.

- 4.3 The responsible party shall take all reasonable steps to minimize any adverse impact to the MS4 or the Waters of State, including accelerated or additional monitoring necessary to determine the nature and impact of the discharge.

Section 5 - Enforcement

- 5.1 Any Person responsible for any connection to the MS4 which results in a prohibited discharge shall immediately cause such illegal connection to be discontinued and redirected, if necessary, to an approved sanitary sewer system. Such Person shall provide Floyd County with written confirmation, in a form satisfactory to Floyd County, that the connection has been discontinued, and, if necessary, redirected to the sanitary sewer.
- 5.2 Any Person responsible for illicit discharges or noncompliance with BMPs at industrial and/or construction sites, and who fails to correct any prohibited condition or discontinue any prohibited activity at the order of Floyd County, shall be liable to the County for expenses incurred in abating pollution. Such expenses may include those incurred in testing, measuring, sampling, collecting, removing, treating, and disposing of the polluting materials and preventing further noncompliance and/or illicit discharges.
- 5.3 Floyd County may institute appropriate actions or proceedings at law or in equity for the enforcement of this ordinance, and Floyd County shall be entitled to recover its costs expended and reasonable attorney fees in any such proceeding. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent Floyd County from taking such other lawful action as necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following enforcement remedies and penalties, to be applied independently or in a sequence as deemed necessary, shall be available to Floyd County in response to violations of this ordinance. If the Person, property or facility has or is required to have a storm water discharge permit from the IDEM, Floyd County shall notify the appropriate State authorities of the violation.
- 5.3.1 Notice of Violation (NOV) - Whenever Floyd County finds that any Person owning or occupying premises has violated or is violating this ordinance or an order issued hereunder, the enforcement official may serve, by personal service, registered, or certified mail, upon said Person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to Floyd County. Submission of this plan shall not, however, affect liability for violations of this ordinance.

5.3.2 Revocation of permit - Floyd County revoke and require surrender of a permit or certificate by notifying the permit holder, in writing, of the reason for the revocation. Permits or certificates may be revoked for any substantial departure from the approved application plans or specifications; refusal or failure to comply with the requirements of State or local law; or, for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.

5.3.3 Stop Work Order - Floyd County may issue a Stop Work Order and require that all activities cease, except those actions that are necessary to eliminate the illicit discharge. Unacceptable or untimely actions to eliminate the illicit discharge may be used as grounds to revoke permits for the construction site as described in 5.3.2.

5.3.4 Compliance order - If any Person shall violate the provisions of this ordinance, Floyd County may order the owner, responsible party, or any Person in possession of the subject property that all unlawful conditions existing thereupon be abated within a scheduled period defined from the date of such notice.

5.3.4.1 The enforcement official shall have the authority to establish elements of a storm water pollution prevention plan and require any business to adopt and implement such a plan as may be reasonably necessary to fulfill the purposes of this Article. The enforcement official may establish the requirements of BMPs for any premises.

5.3.4.2 If it is determined by Floyd County that an unlawful condition is such that there is imminent danger or peril to the public health, safety, or welfare, Floyd County may, with or without notice, proceed to abate the same, with the costs of such abatement to be charged against the property, its owner, or the responsible party, jointly and severally.

5.3.5 Civil Penalties - Any Person who has been found to have violated of any provision of this ordinance may be assessed a civil penalty not to exceed the amount the lessor of (1) that set forth in this subsection or (2) the maximum amount permitted by law.

5.3.5.1 The penalty shall increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same Person. This penalty shall be in addition to other enforcement actions of this section.

5.3.5.2 The penalty may be assessed for each day that the prohibited activity continues beyond those schedules set forth in compliance orders or other abatement schedules issued to the property owner or other Person responsible by Floyd County.

5.3.5.3 ,In determining the amount of the penalty the Court shall consider the following:

5.3.5.3.1 The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;

5.3.5.3.2 The duration and gravity of the violation;

5.3.5.3.3 The effect on ground or surface water quality;

5.3.5.3.4 The cost of rectifying the damage;

5.3.5.3.5 The amount of money saved by noncompliance; 5.3.5.3.6 Whether the violation was committed willfully or intentionally;

5.3.5.3.7 The cumulative effect of other enforcement actions applied for the same offense;

5.3.5.3.8 The prior record of the violator in complying or failing to comply with the storm water quality management program; and

5.3.5.3.9 The costs of enforcement to Floyd County.

5.3.5.4 A civil penalty of not more than \$2,500.00 may be assessed for each of the following offenses:

5.3.5.4.1 Development without permit.

To engage in any development, use, construction, remodeling or other activity of any nature upon land or improvements thereon, subject to the jurisdiction of this ordinance without all required permits, certificates or other forms of authorization as set forth in this ordinance.

5.3.5.4.2 Development inconsistent with permit.

To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate or other form of authorization granted for such activity.

5.3.5.4.3 Violation by act or omission.

To violate, by act or omission, any term, variance, modification, condition or qualification placed by Floyd County upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.

5.3.5.4.4 Illicit Discharge.

To improperly disposed of any substance defined as an illicit discharge.

5.3.5.4.5 Household Products.

To improperly disposed of any substance, not included in Section 3.1 or 3.3, that was purchased over-the-counter for household use, in quantities considered normal for household purposes, which upon discharge to the MS4 or drainage network would have an adverse impact on water quality or cause Floyd County to be in noncompliance with any applicable environmental permit.

5.3.5.5 In the event there are penalties assessed by the State against Floyd County and resulting from a violation of this ordinance, the Person responsible for such violation may be assessed the lesser of (1) the amount of the penalty assessed as against Floyd County, or (2) \$2,500.00.

5.3.6 Order to clean and abate/restore - Any violator may be required to clean and/or restore land to its condition prior to the violation.

5.3.7 Cost Recovery - If corrective action, including required maintenance, is not completed in the time specified or within a reasonable time, Floyd County may take the corrective action, and the cost of abatement or corrective action may be assessed against the responsible party, owner of the premises, and/or the developer. If these costs are not paid within ninety (90) days or invoice, the enforcement official may initiate all appropriate legal actions to enforce the claim.

5.3.8 Injunctions and/or proceedings at law or in equity - Any violation of this ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.

5.3.9 Civil Actions -In addition to any other remedies provided in this ordinance, any violation of this ordinance may be enforced by civil action brought by Floyd County. Monies recovered under this subsection shall be paid to Floyd County to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance. In any such action, Floyd County may seek, as appropriate, any or all of the following remedies:

5.3.9. A temporary and/or permanent injunction;

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Assessment of the violator for the costs of any investigation, inspection or monitoring survey which lead to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

5.3.9.3 Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;

5.3.9.4 Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

5.3.10 Emergency Orders and Abatements. Floyd County may order the abatement of any discharge from any source to the storm water conveyance system when, in the opinion of Floyd County, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, or welfare of the citizens of Floyd County, the environment, or is a violation of a NPDES permit. If such emergency situations occur and the property owner or other responsible party is unavailable, or time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, Floyd County may undertake the abatement of said threat or danger. The costs of any such action by Floyd County may be recovered as in 5.3.7.

5.3.11 Violations deemed a Public Nuisance. Any condition caused or permitted to exist in violation of any of the provisions of this ordinance is deemed a threat to the public health, safety, welfare and environment, and is declared a nuisance which may be abated by injunctive or other equitable relief.

5.3.12 Remedies Not Exclusive. The remedies listed in this ordinance are not exclusive of any remedies available under any applicable Federal, State or local law and Floyd County may seek cumulative remedies.

Section 6 - Compatibility and Severability

6.1 Should any article, section, subsection, clause or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be unconstitutional or invalid, each article, section, clause and provision being declared severable.

6.2 If any provision of this ordinance is inconsistent with any other, law, regulation, statute, or ordinance; or results in the imposition of overlapping or contradictory regulations; or if this ordinance contains any restriction covering any of the same subject matter of another law, regulation, statute, or ordinance, the provision which is most restrictive or imposes the highest standard or strictest requirement shall govern.