

FCO2014-V

Ordinance Establishing Storm Water Drainage Maintenance Standards and Control

BE IT ORDAINED, by the Floyd County Commissioners, as follows:

The intent of this ordinance is to insure proper Stormwater drainage in the territory comprising all of Floyd County that is governed by its MS4 permit. The benefits of this Ordinance will be increased property values, public safety, and public health.

This ordinance supersedes FCO2013-IV which was approved in 2013 and again on May 7th of 2014.

I. Authority

This ordinance is adopted under the authority granted by Indiana Code 14-33-5-20 which mandates that the Stormwater Board make regulations for the administration of Stormwater program in Floyd County.

II. Finding and Purpose

FINDING. The Stormwater Board find that the original Stormwater drainage facilities constructed within the developed areas of Floyd County have become inadequate or of limited use, because of aging, neglect, encroachment, pollution, changing of topography of the drainage area, lack of maintenance, and that immediate steps need to insure that the purposes of the Board relating to Stormwater drainage are accomplished.

Purposes. The purposes of this ordinance are to:

1. Prevent the degradation of the Stormwater drainage facilities within the County;
2. Correct problems associated with encroachment of constructed improvements in drainage easements;
3. Correct problems associated with uncontrolled vegetative growth within drainage easements;
4. To protect and promote the health, safety, and welfare of persons within the County by improving Stormwater drainage in order to minimize standing water that could provide a habitat for the proliferation of insects that are potential carriers of diseases affecting the residents of the County.

III. Applicability

This ordinance applies to all conditions and activities that are serviced by the MS4 permit holder within the boundaries and jurisdiction of Floyd County.

IV. Definitions

Board – Floyd County Stormwater Board

County – Floyd County

Drainage Way – means any drainage easement, channel, swale, ditch, or other facilities in which the county has a right for Stormwater drainage purposes, which are designated as such on plats, surveys, deeds, legal descriptions, restrictive covenants, or any similar documents on file in the county's Office of the Recorder.

Grading – means the cutting and filling of the land surface to a desired slope or elevation

Individual Parcel – means a single parcel of land within the County.

Individual Parcel Owner – means a person who has an ownership interest in, financial control of, or a leasehold interest in, an individual parcel.

Person – means an individual, corporation, LLC, partnership, estate, or other legal entity.

Stormwater Runoff – means the portion of precipitation from such sources as rainfall, snow melt, or irrigation water that flows over the ground surface.

V. General Requirements

The following requirements apply to all Drainage Ways located with the MS4 jurisdiction of Floyd County.

- 1) No individual parcel owner shall allow a drainage way on an individual parcel that the individual parcel owner has an interest in:
 - a. To be blocked by vegetative growth, such that the vegetative growth restricts the flow of Stormwater runoff that damages or potentially damages the drainage way.
 - b. To be blocked by any fence or other man-made object that restricts the flow of Stormwater Runoff.
 - c. The Stormwater Board reserves the rights, at their discretion, to modify the above described restrictions based on the circumstances of the individual parcel.
- 2) No individual parcel owner shall allow anything to be constructed in a drainage way on an individual parcel that the individual parcel owner has an interest in such a way that it restricts the flow of Stormwater Runoff.
- 3) No individual parcel owner shall change the grading in a drainage way on an individual parcel that the individual parcel owner has an interest in such a way to restrict the flow of Stormwater Runoff or allow

the pooling of Stormwater Runoff in a matter that is not directly related to agricultural activities such as livestock ponds or recreational ponds. These facilities are exempt from this section of the ordinance.

4) No person shall hinder Stormwater Runoff in a Drainage Way or fail to keep and maintain any part of a drainage way free of trash, debris, yard waste, excessive vegetation, and other obstacles that would pollute, contaminate, obstruct, hinder, or significantly retard the flow of water through the drainage way, In addition, every individual parcel owner shall maintain existing privately owned structures on their Individual parcel adjacent to a watercourse, so that such structures will not become a hazard or impediment to the use, function, or physical integrity of any Drainage Way.

VI. Inspections

Upon written complaint, the board or representative will investigate said complaint.

The board or its representative may enter any individual Parcel site to verify compliance with this ordinance upon written notification by certified mail by the board to a parcel owner's', wherein the Board has jurisdiction. Emergency action in order to protect life, safety or property may be taken with or without notification. Action is limited to the abatement of immediate danger.

VII. Enforcement and Remedies

The Board shall proceed with enforcement action under the authority of this ordinance, The Floyd County Stormwater Board direct the employees of the County to utilize the rules, procedures, duties, and powers authorized by statute in enforcing this ordinance. The Stormwater Coordinator shall have primary responsibility to administer and enforce the provisions of this Ordinance. Stormwater Coordinator shall report any enforcement action or complaint to the board for enforcement action.

Remedies Not Exclusive. The various remedies provided for in this Ordinance are not exclusive of each other, or of any other remedies available under any applicable federal, state, local law and it is within the discretion of Floyd County to seek cumulative remedies.

Notice of Violation. The Board shall deliver a notice of violation of this ordinance to one or more Individual Parcel Owner if a violation of the requirements is discovered. That notice shall provide the Individual Parcel Owner with a description of the violation and an opportunity to remedy the violation within thirty (30) days. If, within thirty (30) days after issuance of a notice of violation, an Individual Parcel Owner does not comply with the requirements of this ordinance, the Board shall seek enforcement of the requirements of this ordinance and seek fines, as provided below. A notified individual parcel owner may request an extension of time or may enter into an agreement plan with the Board. Any extension request must be made to the full board, for their action. The penalties, if any, associated with the violation may be included in the agreement plan. In addition, any agreement

request must be approved by the full Board. Each day a violation exists shall constitute a separate offense. However, subsequent continuing violations are not entitled to a separate notice of violation.

Fines. Any person causing or contributing to a violation of this ordinance may be fined as follows:

First Violation. A person in violation of this Ordinance shall be fined Two Hundred Fifty Dollars (\$250) for each day which the property has not been brought into compliance with the requirements of this Ordinance.

Second and/or Subsequent Violation. The second (2nd) or subsequent violation of this Ordinance for the same property owned and/or occupied by the same person shall result in the owner and/or lessee being fined a minimum of Five Hundred Dollars (\$500) and a maximum of One Thousand Dollars (\$1000) for each day the violation continues. Amount of fines will be per the board's enforcement decision.

Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Cost of Abatement of the Violation. Within thirty (30) day after the abatement of the violation, the owner of the property shall be notified in writing of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) days from the date of the cost of abatement notification letter. Written protest is to be filed in the office of the Stormwater Coordinator. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the Board by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the legal rate of judgments shall accrue on the balance beginning on the first day following discovery of the violation.

Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Board may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. This remedy is in addition to, not as an alternative to, the fines and corrective measures that may be undertaken, as provided for elsewhere in this ordinance.

Judicial Review. Violations of this ordinance can be enforced by an action being filed in any court in Floyd County, Indiana having jurisdiction to issue an injunction and impose fines and other remedies provided for hereunder.

VIII. Each Section Adopted Separately

Each section of this ordinance is adopted separately. In the event that any provision, part or section of this ordinance is deemed to be illegal or invalid only that part or section shall be repealed. The remaining parts or sections of the ordinance shall remain in effect.

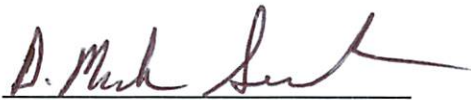
IX. Ordinance Subject To Other Laws

This ordinance does not supersede Federal, State, or Local laws, statutes, or regulations except as allowed.

X. Adoption of Ordinance

This ordinance shall be in full force and effect immediately after its final passage and publication as required, if any. All prior ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

ORDIANED ON THIS 3rd DAY OF June 2013: 2014



D. Mark Seabrook, President



Stephen A. Bush, Member



Charles A. Freiburger, Member

Attested by:



Scott Clark, Floyd County Auditor