

**Ordinance 2012 - 7**

**An ordinance prohibiting illicit discharges into the County's Stormwater System**

**WHEREAS**, the government of Monroe County, Indiana (hereinafter the "County"), is mandated by applicable law to address the requirements of the National Pollutant Discharge Elimination System (NPDES) small Municipal Separate Storm Sewer System (sMS4) permit program requirements as administered by the Indiana Department of Environmental Management (IDEM) under 327 IAC 15-13 (Rule 13) and related programs; and,

**WHEREAS**, the County is responsible for stormwater management for the unincorporated area of Monroe County with the municipalities of Bloomington, Ellettsville and Stinesville being responsible for stormwater management within their corporate boundaries; and,

**WHEREAS**, the County has established a stormwater management program under the provisions of IC 8.1.5-5; and,

**WHEREAS**, Section 14(c) of Rule 13 requires the County, in its capacity as a Municipal Separate Storm Sewer System (MS4) operator, to adopt an ordinance to prohibit illicit discharge into MS4 conveyances and to establish appropriate enforcement procedures and actions; and

**WHEREAS**, all MS4 conveyances that the County is responsible for managing are included in the County's Stormwater System; and,

**WHEREAS**, the adoption and enforcement of a prohibition of illicit discharges into the County's Stormwater System will protect the public health, safety and general welfare of the citizens of the County by protecting and enhancing the quality of water bodies in the County.

**NOW, THEREFORE, BE IT ORDAINED BY THESE COMMISSIONERS OF MONROE COUNTY, INDIANA, AS FOLLOWS:**

Section 1. The Monroe County Code shall be, and hereby is, amended by the addition of Chapter 767, in the following words and figures:

**CHAPTER 767**

**ILLICIT DISCHARGE PROHIBITION AND ENFORCEMENT**

**767-1. Definitions.**

For purposes of this Chapter, the following definitions shall apply:

A. Administrator - The employee of Monroe County, Indiana, Government who has been assigned responsibility for administering the Stormwater System and Fee programs. This term shall be construed to include those County employees working under the direction of the Administrator.

B. Board - The Monroe County Storm Water Management Board, comprised of the three County Commissioners and the County Surveyor, which is charged with administering the County's stormwater management program pursuant to IC 8-1.5-5.

C. Conveyance - Any structural process for transferring storm water between at least two (2) points. This term includes (but is not limited to) piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains and roadways.

D. Household Hazardous Waste - Solid waste generated by households that:  
(i) is ignitable;  
(ii) is toxic;  
(iii) is reactive;  
(iv) is corrosive; or  
(v) otherwise poses a threat to human health or the environment.

E. Illicit Discharge - Any discharge, deposit, injection, spilling, leaking or placing into the Stormwater System by direct connection or otherwise that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges include (but are not limited to) sanitary wastewater, septic tank effluent, car wash wastewater, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, yard waste, animal waste and bedding, and household hazardous wastes.

F. Mutual Drain - A drainage system that:  
(i) is located on two (2) or more tracts of land under different ownership;  
(ii) was established by the mutual consent of all the owners; and  
(iii) was not established under or made subject to any drainage statute.

G. Private Drain - A drainage system that:  
(i) is located on land owned by one (1) person or by two (2) or more persons jointly; and  
(ii) was not established under or made subject to any drainage statute.

H. Responsible Person - The person who is responsible for any violation of this Chapter.

I. Stormwater - Water resulting from rain, melting or melted snow, hail or sleet.

J. Stormwater MS4 Area - That area of Monroe County described in the NPDES permit issued by the Indiana Department of Environmental Management.

K. Stormwater System - A system of constructed and naturally occurring above ground and below ground facilities or infrastructure intended to collect, treat, convey and otherwise manage runoff from rain, snow and other precipitation including, but not limited to, drains, inlets, conduits, culverts, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, lakes, ponds streams, creek, rivers and other related components.

More particularly, for purposes of this chapter, a conveyance or system of conveyances, other than a mutual drain or a private drain, located within the Stormwater MS4 Area:

- (i) owned, operated or regulated pursuant to IC 8-1.5.5, IC 36-9-27 or 327 IAC 15-13-14 by Monroe County;
- (ii) that discharges into the waters of the State of Indiana;
- (iii) designed or used for collecting or conveying storm water;
- (iv) not a combined sewer; and
- (v) not part of a publicly owned treatment works (POTW) as defined by 40CFR 122.2

**767-2. Prohibition of Illicit Discharges.**

Except as provided in Section 3 below, the commencement or continuance of any illicit discharge into the Stormwater System is hereby prohibited and declared to be illegal.

**767-3. Exclusions.**

Section 2 above shall not apply to the following (reference 327 IAC 15-13-14 d):

- A. Water line flushing
- B. Landscape irrigation
- C. Diverted stream flows
- D. Rising ground waters
- E. Uncontaminated ground water infiltration
- F. Uncontaminated pumped ground water
- G. Discharges from potable water sources
- H. Foundation drains
- I. Air conditioning condensation
- J. Irrigation water
- K. Springs
- L. Water from crawl space pumps
- M. Footing drains
- N. Lawn watering
- O. Individual residential car washing

- P. Flows from riparian habitats and wetlands
- Q. De-chlorinated swimming pool discharges
- R. Street wash water
- S. Discharges from firefighting activities

**767-4. Enforcement.**

A. The Board shall administer, implement and enforce the provisions of this Chapter. For this purpose, the Administrator and other agents duly authorized by the Board shall have the right to enter upon and inspect real estate and facilities subject to regulation under this Chapter as often as necessary to determine compliance or non-compliance with this Chapter.

B. The Administrator shall issue a notice of violation to any Responsible Person. The notice of violation will describe the violation which has been committed, the applicable fine(s) for the violation and may state when such violation must be corrected to avoid further action, including the imposition fines. If the violation is not corrected by the deadline set forth in the notice of violation, or the notice of violation does specifically allow a period of time to correct the violation, the Administrator shall report the notice of violation to the Board.

A Responsible Person has 30 days from the date of the issuance of a notice of violation to file an appeal with the Board. Upon appeal of the notice of violation by a Responsible Person or upon the request of the Administrator, the Board shall conduct a hearing, with notice to the Responsible Person, within 30 days of the filing of an appeal. If the Board finds by a preponderance of the evidence that a violation of this Chapter has occurred, it may determine the amount of fines to be imposed upon the Responsible Person in an amount not to exceed \$2,500 for each initial violation and \$7,500 for each second or subsequent violation, and/or issue orders to correct violation. In the event the responsible person does not pay any fine imposed by the Board or correct the violation as ordered by the Board, the Board may commence a Court action to enforce any fine or to obtain compliance with any order it issues.

Subject to any order issued or actions take by the Board, the Administrator may direct the County Attorney to commence a Court action to enforce the Chapter. Court action shall not be commenced until after 30 days from the date of the issuance of the notice of violation, unless the Board or the Administrator determines that a violation requires judicial intervention to prevent potentially irreversible damage to public health, safety and/or general welfare. Such action may be for injunctive relief restraining the Responsible Person from activities causing a violation or compelling such person to perform abatement or remediation of the violation. In addition or in the alternative, the action may seek fines not exceeding \$2,500.

C. The remedies listed in this Chapter are not exclusive of any other remedies available under any federal, state or local laws or regulations

Section 2. This Ordinance shall be in full force and effect following its adoption by this Board of Commissioners and the minimum period of any publication required by applicable Indiana law.

Section 3. If any section, clause, sentence, phrase, or application of this Ordinance, or of Chapter 767, is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance or of Chapter 767, or of other applications of this Ordinance or of Chapter 767.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**MONROE COUNTY BOARD OF COMMISSIONERS**

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“NAYS”

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Patrick Stoffers, President

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Patrick Stoffers, President

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Iris F. Kiesling, Vice-President

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Iris F. Kiesling, Vice-President

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Mark Stoops, Member

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Mark Stoops, Member

ATTEST: \_\_\_\_\_, 2012

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Amy Gerstman, Monroe County Auditor