

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 and 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.

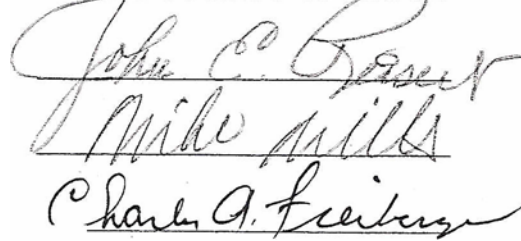
NOW THEREFORE:

BE IT RESOLVED, that the recitals set forth herein be incorporated herein and 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 2nd day of September 2004.

BOARD OF COMMISSIONERS
OF THE COUNTY OF FLOYD



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FLOYD COUNTY AUDITOR

FLOYD COUNTY ORDINANCE 2004-

AN ORDINANCE REGULATING CONSTRUCTION SITE RUNOFF

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 1.0 - Title

This article shall be known as the "Construction Site Runoff Control Ordinance" of Floyd County, Indiana and may be so cited.

Section 1.1 - Jurisdiction, Alternatives, and Exemptions

1.1.1 The Construction Site Runoff Control Ordinance shall govern all properties within the jurisdictional boundaries of the Floyd County Plan Commission.

1.1 .2 There are two alternatives for permit application and processing procedures as described by the following:

1.1.2.1 For projects located within the Floyd County's MS4 area, the project site owner shall submit an application for a storm water management permit to Floyd County. The application will include the information specified in Sections 3 and 4 of this ordinance. Four copies of each application must be submitted. Additionally, the County may require digital submission of construction plans in an approved format. One copy of the application will be forwarded to the Soil and Water Conservation District (SWCD) for its review and comment. The remaining three copies will be reviewed by departments within the County.

Once all comments have been compiled from the departments and the SWCD, the project will be placed on the agenda of the next scheduled meeting of the Plan Commission. The County will furnish the applicant with a complete list of comments and objections to the plans and supporting documentation submitted by the applicant, at least 10 days prior to the scheduled meeting.

Within 10 days after the meeting, the County will either issue a permit, or request modification to the construction plans.

The project site owner must notify the County and the IDEM within 48 hours prior to the commencement of construction activities by the submission of an updated NO/. Upon completion of construction activities, stabilization of the project site and removal of all temporary erosion protection and sediment control measures, the applicant may submit a Notice of Termination (NOT) to the County. The County shall inspect the project site to verify that the requirements of the NOT have been met. Once the applicant receives a verified copy of the NOT, the applicant must forward a copy of the verified NOT to the IDEM.

1.1.2.2 For projects located only partially inside the County's MS4 area, the project site owner must comply with the requirements of this ordinance and may also be required to comply with 327 IAC 15-5 (Rule 5) and/or another MS4 community's construction site control ordinance.

1.1.3 The following development activities are exempt from the provisions of this ordinance.

1.1.3.1 Agricultural land management activities

1.1.3.2 Additions to or modifications of existing detached, single-family dwellings

1.1.3.3 Development of individual lots which are not part of a larger development project, if the total disturbance is less than one (1) acre. For multi-lot developments, see paragraph 3.4.

1.1.3.4 Development that does not disturb more that 5,000 square feet of land. This exception does not apply to tracts or parcels, whether in common or separate ownership, which have been subdivided from a single parent tract, if the total area within the original parent tract which is disturbed, anyone time, exceeds 5,000 square feet.

NOTE: These exemptions apply only to permitting procedures under this Article and do not, necessarily, apply to any discharge of sediment or other form of water pollution that may leave a site. Such discharges may, in fact, constitute prohibited illicit discharges.

Section 1.2 - Recitals

1.2.1 Whereas, uncontrolled storm water drainage/discharge may have a significant adverse impact on the health, safety and welfare of the citizens of Floyd County, Indiana. More specifically, surface water runoff can carry pollutants and sediment pollution into receiving waters. The potential impacts include:

1.2.1.1 changing natural ecosystems through the destruction of habitat and the loss of plant and animal life.

1.2.1.2 posing significant health risks through an increase in bacteria and toxic materials.

1.2.1.3 accelerating eutrophication of receiving waters by introducing excessive nutrients.

1.2.1.4 increasing metal deposits creating toxicity for aquatic life.

1.2.1.5 reducing oxygen levels because of oil, grease and organic matter.

1.2.1.6 affecting animal and plant life, adversely, due to changing temperatures of receiving waters.

1.2.1.7 accumulation of excess sediment and/or debris that limits the function of flood control infrastructure.

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

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

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

Section 1.3 - Objectives

1.3.1 Protection of the short-term and long-term public health, safety, general welfare. This objective 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 in its service area.

- 1.3.1.2 protecting, and preserving water quality and fish and wildlife habitat within Floyd County and in downstream receiving waters.
- 1.3.1.3 protecting those downstream from water quality impairment.
- 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 2001. The objectives of these regulations include:
 - 1.3.2.1 managing the quality of water discharged to the municipal storm water system by controlling the contribution of pollutants associated with residential, commercial and industrial activity.
 - 1.3.2.2 controlling storm water pollution caused by the suspension and transport of soils and other sediments.
 - 1.3.2.3 protecting or enhancing storm water quality to a level of "designated use" and minimize the impacts from new development and/or areas of significant redevelopment.
- 1.3.3 To help maintain a stable tax base by providing for the sound use and development of flood-prone area in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural storm water resources.
- 1.3.4 Minimize damage - to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets and bridges.
- 1.3.5 Ensure the use of the public and private storm water management system . that will not result in excessive maintenance costs.
- 1.3.6 Encourage the use of natural and aesthetically pleasing designs that maximize preservation of natural areas.
- 1.3.7 Control the discharge of sediment and construction site materials into the storm water system.
- 1.3.8 Guide the construction of storm water management facilities by developing comprehensive master plans to address storm water quantity and quality.
- 1.3.9 Encourage preservation of flood plains, flood ways and open spaces to protect and benefit the community's quality of life and natural resources.

Section 1.4 - Definitions

- 1.4.1 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:

Perimeter/Outfall Protection Permit is a legal document that allows the permit holder to break ground or disturb soil in order to install sediment control practices at the hydrologic perimeter / outfall(s) of a construction site. This document does not give permission to the permit holder to break ground or disturb soil on an entire construction site, as is granted through the issuance of a *Storm water Quality Management Permit*.

Floyd County means and includes, for purposes of this Article, 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.

Person means, except to the extent exempted from this Article, 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.

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

Storm water Quality Management Permit is a legal document that allows the permit holder to break ground or disturb soil on an entire construction site within the provisions of a Grading Plan and a Storm water Pollution Prevention Plan. The permit addresses erosion prevention, sediment control and non-sediment pollution prevention activities. The plans for this permit and the *Perimeter/Outfall Protection Permit* are approved simultaneously. However, the *Storm water Quality Management Permit* is only issued after the provisions of the *Perimeter/Outfall Protection Permit* have been implemented, inspected and accepted. Approval of plans for a *Storm water Quality Management Permit* does not constitute issuance of the permit.

Qualified Professional is a person who has been certified by Floyd County to be qualified to inspect storm water quality management activities and oversee maintenance activities.

Section 1.5 - Authority and Right of Entry

1.5.1 Floyd County shall have right-of-entry on or upon the property of any Person subject to this Article 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 Article.

1.5.2 Where a property, site or facility has security measures in force which require proper identification and clearance before entry into its premises,

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.

- 1.5.3 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.
- 1.5.4 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 and at no cost to Floyd County.
- 1.5.5 Floyd County may inspect the facilities of any person in order to ensure compliance with this Article. 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 the consent of the responsible party. However, If such consent is refused, denied or not promptly tendered, Floyd County may seek appropriate judicial orders permitting such entry.
- 1.5.6 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:
 - 1.5.6.1 An initial inspection prior to storm water management plan approval;
 - 1.5.6.2 An inspection prior to burial of any underground drainage structure;
 - 1.5.6.3 Erosion control inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system;
 - 1.5.6.4 A finish inspection when all work, including installation of storm management facilities, have been completed; and
 - 1.5.6.5 An inspection to determine the effectiveness or operational viability of a permanent or long-term storm water quality management practice.

Section 2-Perimeter/Outfall Protection Permit

- 2.1 A *Perimeter/Outfall Protection Permit* must be issued prior to breaking ground or disturbing soil in order to install sediment control practices at the hydrologic perimeter / outfall(s) of a construction site. The permit does not give permission to the permit holder to break ground or disturb soil on the entire construction site, as is granted through the approval and issuance of a *Storm water Quality Management Permit*.

- 2.2 A Perimeter/Outfall Protection Permit is a predecessor to a *Storm water Quality Management Permit*. While plans for both permits are approved simultaneously, the provisions of a *Perimeter/Outfall Protection Permit* must be implemented, inspected and accepted by Floyd County prior to issuance of a *Storm water Quality Management Permit*.
- 2.3 A *Perimeter/Outfall Protection Permit* may only be issued after the review and acceptance of a Perimeter Control Plan.
- 2.4 Securing the perimeter prior to any land disturbance will decrease sedimentation off-site once construction has begun. Perimeter protection shall focus on downstream points and outfall areas and does not necessitate protection of the entire site boundary. Efforts shall be focused on those areas where water flow is most likely to exit the project site.
- 2.5 Clearing, except that necessary to establish sediment control devices shall not begin until all sediment control devices have been installed and have been stabilized. Sediment control devices prevent eroded soil from leaving the project site through the site perimeter or outfalls.
- 2.6 Contractors shall install sediment control measures and regularly inspect and maintain the facilities throughout construction.
- 2.7 Compliance with this Article requires that a grading plan be developed and submitted, a grading permit obtained, and a perimeter control plan be implemented before any clearing or stripping.

2.8 Perimeter Control Plan

- 2.8.1 The Perimeter Control Plan shall include measures to prevent sediment from leaving the site during initial disturbance activities and prior to temporary or permanent erosion prevention and/or sediment control practices.
- 2.8.2 The Perimeter Control Plan shall address downstream outfall points, while the Grading Plan defines site-wide erosion prevention and sediment control measures.
- 2.8.3 The Perimeter Control Plan shall address prevention of sediment deposition on properties adjacent to the project site. Utilizing well-vegetated buffer strips along lower perimeters, sediment barriers, filters, diversion berms, sediment basins or other means accepted by Floyd County may all be employed or combined to adequately protect adjacent properties.
- 2.8.4 In selection of sediment control measures the type of flow, site terrain, soil type, and other relevant factors shall be considered. Buffer strips may only be utilized for sheet flow and must be at least twenty-five

(25) feet in width. If ineffective, a single sediment control device shall be supplemented with additional perimeter controls.

2.8.5 The Perimeter Control Plan shall address stabilizing construction entrances/exits to reduce the amount of sediment transported onto nearby roadways, and potentially into waterways. Where possible, traffic entering a public right-of-way, alley, sidewalk, or parking lot, shall first pass over a stabilized stone pad. This pad shall be at least six (6) inches thick, one-hundred (100) feet long, and contain two (2) to three (3)-inch crushed coarse graded stone. If operating under seasonally wet conditions and/or soft soils, filter fabric shall underlie the stabilized stone pad.

2.8.6 The Perimeter Control Plan shall address protection of outlets such as pipes, drains, culverts, conduits or channels by significantly minimizing erosion and sedimentation through reduction of the velocity of flows from the project site. The placement of rock, grouted rip-rap, or concrete rubble at the outlet of a pipe to prevent scour of the soil around the culvert mouth caused by the high pipe flow velocities or similar measures are encouraged.

2.9 Acceptance

2.9.1 Site inspection and approval by Floyd County must be received before any land disturbance or grading may proceed.

2.9.2 Floyd County shall make inspections of the site prior to the acceptance of the perimeter protection plan. Inspection will be performed within seven (7) days after the submission of the plan and installation of the perimeter protection devices but before any disturbance or clearing has been performed. The inspector shall either approve the portion of work completed or shall advise the permittee as to the noncompliance with the perimeter protection plan as approved.

2.9.3 Inspection of perimeter protection BMPs shall consist of a visual check list for each type of BMP, to ensure that each was designed and installed according to site specific conditions.

2.9.4 Acceptance of the perimeter control plan and inspection of the appropriate BMPs shall compensate for and address any seasonal variations which may hinder the effectiveness of the BMPs. Seasonal variations may include changes in flow, hydrology, temperature, and vegetation. BMPs shall be designed according to these variations and appropriately to maintain a level of service.

2.10 The Indiana Department of Natural Resource's guidance documents, including the "Handbook for Erosion Control in Developing Areas, 1985" or

the "Indiana Storm water Quality Manual", should be reviewed and considered when preparing the Perimeter Control Plan.

- 2.11 Floyd County reserves the right to develop or adopt other guidance documents to serve as design and implementation standards.

Section 3 - Storm water Quality Management Permit

- 3.1 Floyd County requires that all non-exempt development or redevelopment activities obtain a Storm water Quality Management Permit.
- 3.2 A Storm water Quality Management Permit must be issued prior to the initiation of any land disturbing activities to ensure the protection of the County's storm water system, public health, water quality and aquatic life.
- 3.21 It will be the responsibility of the project site owner to complete a storm water permit application and to ensure that a sufficient construction plan, including a Storm water Pollution Prevention Plan (SWPPP), is completed and submitted to the Plan Commission in accordance with this Article.
- 3.22 It will be the responsibility of the project site owner to ensure compliance with this Article and implementation of the SWPPP during the construction activity, and to notify the County of project termination via a Notice of Termination (NOT) letter upon completion and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site must comply with the requirements of this Article.
- 3.3 Submissions for a Storm water Quality Management Permit application must include (1) a Notice of Intent letter with proof of publication of a Public Notice, (2) Construction Plans, (3) a Storm water Pollution Prevention Plan, and (4) any other necessary information or documentation requested by the County.
- 3.3.1 The Notice of Intent (NO I) letter is a standard form that includes the following information:
- 3.3.1.1 Name, mailing address and location of the project site for which the notification is submitted.
- 3.3.1.2 The project site owner's name, address, telephone number, e-mail address (if available) and ownership status as federal, state, public, private or other entity.

- 3.3.1.3 Contact person (if different than project site owner), person's name, company name, address, e-mail address (if available) and telephone number.
- 3.3.1.4 A brief description of the construction project, including a statement of the total acreage of the project site. Total acreage claimed in the NOI letter shall be consistent with the acreage covered in the construction plan.
- 3.3.1.5 Estimated dates for initiation and completion of construction activities.
- 3.3.1.6 The latitude and longitude of the approximate center of the project site to the nearest fifteen (15) seconds, and the nearest quarter section, township, range, and civil township in which the project site is located.
- 3.3.1.7 Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots, and other similar improvements.
- 3.3.1.8 . The number of acres to be involved in the construction activities.
- 3.3.1.9 Proof of publication of a Public Notice in a newspaper of general circulation in Floyd County notifying the public that construction activities are to commence, and that states the following:
 - 3.3.1.9.1 "(Company name, address) is submitting an NOI letter to notify the Floyd County and the Indiana Department of Environmental Management of our intent to comply with the requirements the Construction Site Runoff Control Ordinance of Floyd County, Indiana, and the requirements of 327 IAC 15-5 and 327 IAC 15-13 to discharge storm water from construction activities for the following project: (name of the construction project, address of the location of the construction project). Runoff from the project site will discharge to (stream(s) receiving the discharge(s))."
- 3.3.1.10 As applicable, a list of all MS4 areas designated under 327 IAC 15-13 in which the project site lies together with a signed certification that:

3.3.1.10.1 the storm water quality measures included in the construction plan comply with the requirements of this Article and that the SWPPP complies with all applicable federal, state, and local storm water requirements;

3.3.1.10.2 the measures required by this Article will be implemented in accordance with the SWPPP;

3.3.1.10.3 storm water quality measures beyond those specified in the storm water pollution prevention plan will be implemented during the life of the permit if necessary to comply with this Article; and

3.3.1.10.4 installation and maintenance of storm water quality measures will be inspected by trained individuals.

3.3.1.11 The name of the receiving water(s) or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.

3.3.1.12 The NOI letter must be signed by a Qualified Professional.

3.3.1.13 The NOI letter must be submitted to the Floyd County Plan Commission at the following location/address:

City-County Building
New Albany, IN 47150

3.3.2 Construction plan sheets and an accompanying narrative report shall be submitted describing existing and proposed site conditions, including the following:

3.3.2.1 Project narrative and supporting documents, including the following information:

3.3.2.1.1 An index indicating the location in the construction plans of all information required by this subsection.

3.3.2.1.2 Description of the nature and purpose of the project.

- 3.3.2.1.3 Legal description of the project site. The description should be to the nearest quarter section, township, and range, and include the civil township.
 - 3.3.2.1.4 Soil properties, characteristics, limitations, and hazards associated with the project site and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.
 - 3.3.2.1.5 General construction sequence of how the project site will be built, including phases of construction.
 - 3.3.2.1.6 14-Digit Watershed Hydrologic Unit Code (HUG).
 - 3.3.2.1.7 A reduced plat or project site map showing the lot numbers, lot boundaries, and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no larger than eleven (11) inches by seventeen (17) inches for all phases or sections of the project site.
 - 3.3.2.1.8 A general site plan exhibit with the proposed construction are superimposed on ortho-aerial map at a scale of 1" = 100'. The exhibit should provide 2-foot contour information and include all roads and buildings within a minimum 500' radius beyond the project boundaries.
 - 3.3.2.1.9 Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.
- 3.3.2.2 Vicinity map depicting the project site location in relationship to recognizable local landmarks, towns, and major roads, such as a USGS topographic quadrangle map or county or municipal road map.
- 3.3.2.3 An existing project site layout that must include the following information:

3.3.2.3.1 Location, name and normal water level of all wetlands, lakes, ponds and water courses on, or adjacent to, the project site.

3.3.2.3.2 Location of all existing structures on the project site.

3.3.2.3.3 One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.

3.3.2.3.4 Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Surveyor as determined by a soil scientist. A soil legend must be included with the soil map.

3.3.2.3.5 Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site.

3.3.2.3.6 Location of storm, sanitary, combined sewer and septic tank systems and outfalls.

3.3.2.3.7 Location of regulated drains, farm drains, inlets and outfalls, if any exist of record.

3.3.2.3.8 Land use of all adjacent properties.

3.3.2.3.9 Existing topography at a contour interval appropriate to indicate drainage patterns.

3.3.2.4 Final project site layout, including the following information:

3.3.2.4.1 Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas.

3.3.2.4.2 One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.

3.3.2.4.3 Proposed final topography at a contour interval appropriate to indicate drainage patterns.

- 3.3.2.5 A grading plan, including the following information:
- 3.3.2.5.1 The Grading Plan shall include provisions for operation and maintenance of measures identified in the Perimeter Control Plan.
 - 3.3.2.5.2 The Grading Plan shall make clear the erosion prevention and sediment controls which are most appropriate to the specific site conditions.
 - 3.3.2.5.3 The Grading Plan shall illustrate the location and extent of erosion prevention and sediment controls.
 - 3.3.2.5.4 The Grading Plan shall include sequencing and schedule information, structural and non-structural Best Management Practices (BMPs), temporary and permanent stabilization measures.
 - 3.3.2.5.5 The Grading Plan shall include anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of sediment and construction debris)
 - 3.3.2.5.6 The Grading Plan shall include provisions for construction phasing. This shall be designed so that stripping and clearing of the site exposes only the area necessary for immediate activities and minimizes the amount of soil exposed at anyone time. This includes rough grading, construction of utilities, infrastructure and buildings, and final grading and landscaping. Phasing should identify the expected date on which clearing of the area will begin and the estimated duration of exposure. The sequence of phased clearing and the installation of temporary and permanent erosion control measures should be identified.
 - 3.3.2.5.7 The Grading Plan shall include provisions for a no-disturbance waterway buffer, including:

3.3.2.5.7.1 The no-disturbance waterway buffer shall be defined as twenty-five (25) feet from the top of waterway bank as defined by geomorphic shape and not by the current water surface elevation.

3.3.2.5.7.2 The no-disturbance waterway buffer shall be applied to all waterways and open-air drainage systems that drain more one-hundred (100) acres of tributary area or is presented on a United State Geological Survey map as a solid and dashed blue line stream.

3.3.2.5.8 The Grading Plan shall include provisions for stabilizing denuded areas and soil stockpiles.

3.3.2.5.8.1 Soil stabilization shall be designed to prevent the erosive forces of rain and water flow from washing soil from the site. Soil stabilization measures may be temporary and/or permanent and should be appropriate to the seasonal hydrology, site conditions, and estimated duration the measure will be in place.

3.3.2.5.8.2 Denuded areas must be stabilized with permanent or temporary soil stabilization measures within 15 days of either achieving final grade, or within 15 days to any area that will remain dormant for over 60 days.

3.3.2.5.8.3 Soil stockpiles, if left undisturbed for 15 or more days, shall be stabilized. Sediment trapping measures such as sediment traps and

detention ponds shall be utilized to prevent soil loss from the project site through the duration of soil stockpiling practices.

- 3.3.2.5.9 The Grading Plan shall include provisions for stabilizing cut and fill slopes.
 - 3.3.2.5.9.1 Minimization of erosion must be considered when designing and constructing cut and fill slopes. Length, steepness, soil type, upslope tributary area, groundwater, and other relevant factors must all be taken into account.
 - 3.3.2.5.9.2 Stabilization practices such as rock rip-rap, geosynthetic material, or other methods approved by the shall be used on cut and fill slopes at 3 to 1 or greater.
 - 3.3.2.5.9.3 Cut and fill slopes must be stabilized with permanent or temporary soil stabilization measures within 15 days of either achieving final grade, or within 15 days to any area that will remain dormant for over 60 days.
- 3.3.2.5.10 The Grading Plan shall include provisions for erosion prevention measures .. Erosion prevention measures shall be designed to minimize the suspension of sediment from the soil. The controls may function independently or in combination with sediment control measures, to prevent sediment laden runoff from leaving the construction site. Acceptable erosion prevention practices include:
 - 3.3.2.5.10.1 Phased Construction/Clearing
 - 3.3.2.5.10.2 Dust control
 - 3.3.2.5.10.3 Construction Road Stabilization
 - 3.3.2.5.10.4 Temporary seeding
 - 3.3.2.5.10.5 Top Soiling

- 3.3.2.5.10.6 Mulching
- 3.3.2.5.10.7 Nets and Mats
- 3.3.2.5.10.8 Geotextiles
- 3.3.2.5.10.9 Terracing
- 3.3.2.5.10.10 Soil bioengineering - slope and stream stabilization
- 3.3.2.5.10.11 Rip-rap
- 3.3.2.5.10.12 Channel linings
- 3.3.2.5.10.13 Temporary diversions, drains and swales
- 3.3.2.5.10.14 Stream crossings
- 3.3.2.5.10.15 Water bar
- 3.3.2.5.10.16 Other measures reviewed and accepted by the County are also appropriate erosion prevention practices.

3.3.2.5.11 The Grading Plan shall include provisions for sediment control measures. Sediment control measures shall be designed to remove sediment, by settling, flocculating, filtering -or other means, from storm runoff prior to discharge from the construction site. The controls may function independently or in combination with erosion prevention measures, to prevent sediment laden runoff from leaving the construction site. Acceptable sediment control practices in include:

- 3.3.2.5.11.0 Stabilized construction entrance
- 3.3.2.5.11.1 Construction entrance tire washing
- 3.3.2.5.11.1 Buffer zones
- 3.3.2.5.11.2 Check dams
- 3.3.2.5.11.3 Silt fence
- 3.3.2.5.11.4 Double layered straw bale barrier
- 3.3.2.5.11.4 Sand bag barrier
- 3.3.2.5.11.5 Brush, rock filter and continuous berms
- 3.3.2.5.11.6 Sediment traps
- 3.3.2.5.11.7 Temporary sediment / detention basin
- 3.3.2.5.11.8 Temporary inlet protection
- 3.3.2.5.11.8 Temporary outlet protection
- 3.3.2.5.11.9 Infiltration systems
- 3.3.2.5.11.10 Wet detention ponds
- 3.3.2.5.11.11 Dry detention ponds
- 3.3.2.5.11.12
- 3.3.2.5.11.13

- 3.3.2.5.11.14 Constructed wetlands
- 3.3.2.5.11.15 Biofilter swales
- 3.3.2.5.11.16 Water quality inlets and hydrodynamic separators
- 3.3.2.5.11.17 Other measures reviewed and accepted by the County are also appropriate sediment control practices.

3.3.2.6 A drainage plan, including the following information:

- 3.3.2.6.1 An estimate of the peak discharge, based on the ten (10) year storm event, of the project site for both pre-construction and post-construction conditions.
- 3.3.2.6.2 Calculation showing that the peak runoff rate post-development for the 10-year and 100-year return period storms of critical duration will not exceed the 2-year and 10-year return period pre-development peak runoff rates, respectively.
- 3.3.2.6.3 Location, size, and dimensions of all storm water drainage systems, such as culverts, storm sewers, and conveyance channels.
- 3.3.2.6.4 Locations where storm water may be directly discharged into ground water, such as abandoned wells or sinkholes. Please note if none exists.
- 3.3.2.6.5 Locations of specific points where storm water discharge will leave the project site.
- 3.3.2.6.6 Name of all receiving waters. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.
- 3.3.2.6.7 Location, size, and dimensions of features, such as permanent retention or detention facilities, including existing or manmade wetlands, used for the purpose of storm water management. Include existing retention or detention facilities that will be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design.

3.3.2.6.8 The estimated depth and amount of storage required by the design of the new pond(s) or basin(s).

3.3.2.7 A' Storm water Pollution Prevention Plan (SWPPP) for construction activities must be designed to, at a minimum, meet the requirements of this Article, and must include the following:

3.3.2.7.1 Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures.

3.3.2.7.2 Temporary stabilization plans and sequence of implementation.

3.3.2.7.3 Permanent stabilization plans and sequence of implementation.

3.3.2.7.4 Temporary and permanent stabilization plans shall include the following:

3.3.2.7.4.1 Specifications and application rates for soil amendments and seed mixtures.

3.3.2.7.4.2 The type and application rate for anchored mulch.

3.3.2.7.5 Construction sequence describing the relationship between implementation of storm water quality measures and stages of construction activities.

3.3.2.7.6 Anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of waste concrete)

3.3.2.7.7 A description of potential pollutant sources associated with the construction activities that may reasonably be expected to add a significant amount of pollutants to storm water discharges, including:

- 3.3.2.7.7.1 Waste concrete management
- 3.3.2.7.7.2 Material delivery, handling and storage
- 3.3.2.7.7.3 *Sanitary* septic waste management
- 3.3.2.7.7.4 Solid waste / trash and debris management
- 3.3.2.7.7.5 Spill prevention control and countermeasures
- 3.3.2.7.7.6 Vehicle and equipment cleaning, fueling and maintenance
- 3.3.2.7.7.7 Sensitive and vegetated area preservation
- 3.3.2.7.8 Material delivery, handling and storage associated with construction activities shall meet the spill prevention and spill response requirements of 327 IAC 2-6.1.
- 3.3.2.7.9 The SWPPP must include provisions for addressing the following issues as applicable to the site-specific construction activities:
 - 3.3.2.7.9.1 De-watering operations
 - 3.3.2.7.9.2 Contaminated soil management
 - 3.3.2.7.9.3 Hazardous materials and waste management
 - 3.3.2.7.9.4 Pesticides, herbicides and fertilizer use
 - 3.3.2.7.9.5. Collection system maintenance
 - 3.3.2.7.9.6 Drainage system flushing'
 - 3.3.2.7.9.7 Over-water activities
- 3.5.2.7.10 A typical erosion and sediment control plan for individual lots.

3.5.2.7.11 Self-monitoring program including plan and procedures.

3.3.2.8 The Indiana Department of Natural Resource's guidance documents, including the "Handbook for Erosion Control in Developing Areas, 1985" or the "Indiana Storm water Quality Manual", should be reviewed and considered when preparing the Grading Plan and Storm water Pollution Prevention Plan.

3.3.2.9 Floyd County reserves the right to develop or adopt other guidance documents to serve as design and implementation standards.

3.4 Requirements for Individual lots

3.4.1 Although no permit is required for individual lots disturbing less than one (1) acre, within a larger permitted project, a formal storm water review will be required prior to the issuance of a building permit. All storm water management measures necessary to comply with this Article must be implemented in accordance with the permitted plan for the larger project.

3.4.2 The information following in 3.4.3 and 3.4.4 must be submitted for review and approval, prior to the issuance of a building permit for an individual lot.

3.4.3 A site location plan showing the individual lot and all adjacent lots dimensions, elevations, drainage patterns and swales.

3.4.4 An erosion and sediment control plan that, at a minimum, includes the following measures:

3.4.4.1 Installation and maintenance of a stable construction site access.

3.4.4.2 Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

3.4.4.3 Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved.

3.4.4.3.1 Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or

disposed of in a manner that is in compliance with all applicable statutes and rules.

3.4.4.3.2 Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

3.4.4.3.3 Self-monitoring program, including a plan and procedures.

3.4.4.4 Certification of Compliance stating that the individual lot plan is consistent with the storm water management permit approved by the County for the larger project.

3.4.4.5 The individual lot operator is responsible for the installation and maintenance of all erosion and sediment control measures until the site is stabilized.

3.5 Storm water Quality Management Permit Termination

3.5.1 The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of storm water quality measures that are to remain on the project site.

3.5.2 The project site owner shall submit a Notice of Termination (NOT) letter to the County and the IDEM and in accordance with the following:

3.5.2.1 The project site owner shall submit an NOT letter when the following conditions have been met:

3.5.2.1.1 All land disturbing activities; including construction on all building lots, have been completed and the entire site has been stabilized.

3.5.2.1.2 All temporary erosion and sediment control measures have been removed.

3.5.2.2 The NOT letter must contain a verified statement that each of the conditions in this subdivision has been met.

3.5.2.3 The project site owner may submit an NOT letter to obtain early release from compliance with this Article, if the following conditions are met:

- 3.5.2.3.1 The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre.
- 3.5.2.3.2 A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.
- 3.5.2.3.3 All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.
- 3.5.2.3.4 The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.
- 3.5.2.3.5 All permanent storm water quality measures have been implemented and are operational.
- 3.5.2.4 Following acceptance of the NOT letter, the project site owner shall notify all current individual lot owners and all subsequent individual lot owners of the remaining undeveloped acreage and acreage with construction activity that they are responsible for complying with this Article. The remaining individual lot owners do not need to submit an NOr letter or NOT letter. The notice must inform the individual lot owners of the requirements to:
 - 3.5.2.4.1 install and maintain appropriate measures to prevent sediment from leaving the individual building lot; and
 - 3.5.2.4.2 maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.
- 3.5.2.5 The SWCD, DNR-DSC, other entity designated by the department or a regulated MS4 entity, or the department may inspect the project site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT letter requirements. If the

inspecting entity finds that the project site owner has sufficiently filed an NOT letter, the entity shall forward notification to the department. Upon receipt of the verified NOT letter by the department and receipt of written approval from the department, the project site owner shall no longer be responsible for compliance with this rule.

3.5.2.6 After a verified NOT letter has been submitted for a project site, maintenance of the remaining storm water quality measures shall be the responsibility of the individual lot owner or occupier of the property.

3.5.3 A Storm water Quality Management Permit shall be considered open and active until a time when Floyd County accepts the site conditions and as-built requirements have been completed.

3.5.4 Acceptance of site conditions shall be made by Floyd County based upon an inspection. If any of the following items are deemed to be insufficient, not appropriate and/or inconsistent with the Grading Plan, Storm water Pollution Prevention Plan or objectives stated in this Article the approval will not be granted.

3.5.4.1 Pipes, channels, catch basins, water quality treatment devices and other infrastructure are clear of sediment, obstructions and debris, and are designed and operating as appropriate for final site conditions.

3.5.4.2 Slopes are permanently stabilized.

3.5.4.3 Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection, etc.) have been removed (as appropriate) and any resulting soil disturbance stabilized.

3.5.4.4 Temporary pollution prevention practices have been demobilized or removed and affected areas stabilized.

3.5.4.5 Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices.

3.5.4.6 Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to designed volume and condition.

3.5.4.7 Other items as deemed to be important by Floyd County.

3.5.5 As-built Requirements

3.5.5.1 Prior to issuance of a use and occupancy permit or final release of bond, the as-built condition of critical storm water management facilities must be reviewed and approved.

3.5.5.2 The volume, capacity, slope, configuration, condition, "as-planted" plans and topographic information, as well as all pipe size, material, lengths, for all detention, retention and water quality practices shall be certified by a Professional Engineer licensed in the State of Indiana. This information shall be provided to the County in the form of an as-built drawing or other electronic form accepted/required by The County. The as-built certification shall indicate if final conditions are consistent with, or exceed, the Storm water Quality Management Permit provisions.

3.5.5.3 If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the Storm water Quality Management Permit requirements, the Floyd County reserves the right to withhold certification of occupancy or final bond. Furthermore, other enforcement mechanisms, as identified within this Article, may be applied to the Person certifying the as-built information.

3.5.5.4 If upon inspection by Floyd County it is determined that there is an item that must be addressed to receive acceptance of site conditions, then the Person shall be required to continue inspections and maintenance as described in the Storm water Quality Management Permit.

Section 4 - Inspections and Maintenance

4.1 Permittee Performed Inspections and Maintenance

4.1.1 Permittee Performed Inspections (Self Inspections) must be performed by a Qualified Professional.

4.1.2 Inspections shall be performed at all control measures every fourteen (14) days and within twenty-four (24) hours of a one quarter (0.25) inch rain event. The inspections will determine the overall effectiveness of the Grading and Storm water Pollution Prevention Plans, needed maintenance activities and the need for additional control measures.

- 4.1.3 All inspections shall be documented in written form and made available to Floyd County or submitted at the time interval specified in the approved permit.
- 4.1.4 Inspections shall be performed consistent with specific visual maintenance checklists approved by Floyd County.
- 4.1.5 Documentation of permittee performed inspections and inspection findings shall be kept on site, if appropriate facilities (such as a project trailer or building) are available. In the event, that appropriate facilities are not available then a copy of the most recent inspection shall be displayed at the site along with other documents that must be displayed to the public per other local, state and federal regulations.
- 4.1.6 Documentation of permittee performed inspections and inspection findings shall be made available within three (3) days of a request by Floyd County. Failure to post or timely submit documentation as requested will be assumed to indicate that inspections were not performed and may result in corresponding enforcement procedures. Inspection documentation shall include by shall not be limited to the following:
 - 4.1.6.1 The address of the site.
 - 4.1.6.2 The parcel identification number.
 - 4.1.6.3 The name of the owner or owner's agent.
 - 4.1.6.4 The location of the storm water system(s).
 - 4.1.6.4.1 A description of the current operational or functional status of the storm water system(s). For sediment control structures, an indication of used and remaining, capacity (fraction, percentage, depth or volume) shall be given to identify when the control must be cleaned out.
 - 4.1.6.4.2 Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the storm water system(s).
 - 4.1.6.4.3 The results of any field or laboratory analyses performed.
 - 4.1.6.4.4 Other relevant or unusual observations related to the system(s).

4.1.6.4.5 Action plan to prevent premature storm water system failure as consistent with the Storm water Quality Management Permit provisions.

4.1.6.4.6 Action plan to prevent the premature system failure that exceeds the Storm water Quality Management Permit provisions, but are necessary to prevent storm water pollution from leaving the site.

4.1 Oversight Inspections

4.1.1 Floyd County shall have the authority to periodically inspect the site of land disturbing activities for which permits have been issued; may make inspections of the site at its discretion; and shall either approve the portion of the work completed or shall notify the permittee wherein the work fails to comply with the Grading or Storm water Pollution Prevention Plans as approved or is ineffective (regardless of consistency with an approved Grading Plan).

4.1.2 The results of the inspections and findings will be presented and reviewed with the permittee at the time of inspection (as available to site personnel), and be available in the permit file within 7 days.

4.1.3 In order to obtain inspections, the permittee shall the County at least two (2) working days before the following activities:

4.1.3.1 Perimeter/Outfall Protection Permit Approval - Prior to the initiation of the project after perimeter protection erosion prevention and sediment control practices have been installed, but prior to disturbance of the remaining site.

Bond release inspections.

4.1.3.2

Upon completion of the project in order to receive

4.1.3.3

approval to cease permittee inspections in compliance with the *Storm water Quality Management Permit*.

4.1.4 Floyd County may identify any repairs, sediment/debris removal or replacement of all or portions of the storm water system(s) necessary to comply with the objectives of this Article and the *Storm water Quality Management Permit*.

4.1.5 Floyd County may develop and require the implementation of an action plan and compliance schedule that prevents the premature storm water quality management system failure as consistent with the Storm water Quality Management Permit provisions.

4.1.6 Floyd County may develop and require the implementation of an action plan to prevent the premature system failure that exceeds the Storm water Quality Management Permit provisions, but are necessary to prevent storm water pollution from leaving the site.

4.2 Maintenance

4.2.1 Maintenance must be performed under the direction and/or supervision of a Qualified Professional.

4.2.2 Maintenance of erosion prevention, sediment control and pollution prevention practices shall be performed according to the Grading and Pollution Prevention Plans.

4.2.3 Maintenance activities shall be performed in accordance with action plans developed through the course of permittee performed inspections. This may represent activities that exceed provisions of the Grading and Pollution Prevention Plans, but are necessary to prevent storm water pollution from leaving the site.

4.3 Qualified Professional Registration and Certification

4.3.1 A Qualified Professional is required to perform routine inspections and direct and/or supervise maintenance activities to ensure that the Storm water Quality Management Permit provisions are being implemented properly.

4.3.2 All Qualified Professionals performing inspections or overseeing maintenance activities under this Article must be registered with Floyd County and certified prior to execution of those actions. All applicants must file an application with Floyd County. Applicants must demonstrate knowledge of 1.) construction practices, 2.) operational standards, 3.) cause and failure indicators and 4.) maintenance measures used to prevent and correct failures.

4.3.3 Floyd County reserves the right to require that Qualified Professional applicants pay a registration fee.

4.3.4 Floyd County reserves the right to require that Qualified Professional applicants satisfactorily complete an approved training course.

4.3.5 Floyd County reserves the right to require that Qualified Professional applicants be re-certified as often as every five (5) years.

4.3.6 Floyd County reserves the right to require that Qualified Professional applicants successfully pass a written exam covering construction practices, operational standards, causes and indicators of storm water quality management system failures and corrective actions as approved by Floyd County.

4.3.7 Floyd County may de-certify any Qualified Professional under one or more of the following circumstances:

4.3.7.1 The individual fails to comply with this Article.

4.3.7.2 Floyd County determines that the individual is not qualified to perform his duties hereunder.

4.3.7.3 The individual is unable to properly perform an evaluation of a storm water quality management system.

4.3.7.4 The individual is negligent in the discharge of his duties as outlined in the certification requirements.

4.3.7.5 The individual submits false or misleading information.

4.3.7.6 The individual fails to maintain the required certification as required by this Article.

4.3.8 Floyd County shall give written notice to a Qualified Professional before being de-certified. The inspector shall be given an opportunity at an informal meeting to show cause why decertification is not appropriate.

4.3.9 A de-certified Qualified Professional may apply for re-certification after one (1) year.

4.4 It shall be the responsibility of Floyd County to:

4.4.1 Administer and enforce this Article.

4.4.2 Develop and administer a process for certifying Qualified Professionals.

4.4.3 Maintain a list of certified Qualified Professionals.

4.4.4 Require corrective actions where there is evidence of a system failure.

4.4.5 Establish criteria for the inspections and the certification of Qualified Professionals and make such criteria and related forms available to the public.

4.5 Fees

4.5.1 Floyd County reserves the right to require fees to cover expenses, including but not limited to overhead, labor, storage, training, etc., associated with the certification, training and inspection process.

4.5.2 Fees shall be paid prior to a certification training course and/or exam.

Section 5 - Enforcement

5.1 Floyd County may institute appropriate actions or proceedings by law or equity for the enforcement of this Article and shall, in each instance, be entitled to recover its costs and attorney fees. 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 may be applied independently, collectively, or in a sequence deemed necessary, shall be available to Floyd County in response to violations of this Article. If the Person, property -or facility has or is required to have a storm water discharge permit from the IDEM, Floyd County shall alert the appropriate State authorities of the violation.

5.1.1 Notice of Violation (NOV) - Whenever Floyd County finds that any Person owning or occupying premises has violated or is violating this Article or an order issued hereunder, the enforcement official may serve such person, personally, or by registered or certified mail, 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 Article.

- 5.1.2 Revocation of permit - Floyd County may revoke and require the surrender of a permit or certificate by notifying the permit holder, in writing, the reason for the revocation. Permits or certificates shall 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.
- 5.1.3 Stop Work Order - Floyd County may issue a Stop Work Order and require that all activities cease.
- 5.1.4 Compliance order - If any Person shall violate the provisions of this Article, Floyd County may give notice to the owner, responsible party, or to any Person in possession of the subject property ordering that all unlawful conditions existing thereupon be abated within a scheduled period defined from the date of such notice.
- 5.1.4.1 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.
- 5.1.4.2 If it is determined by Floyd County that the unlawful condition is such that there is an imminent danger or peril to the public, then Floyd County may, with or without notice, proceed to abate the same, with the costs of such abatement tal be charged to the owner, responsible party, or against the property.
- 5.1.5 Civil Penalties - Any Person that has been found to have violated any provision of this Article may be assessed a civil penalty not to exceed the lesser of (1) the amount presented in this subsection, or (2) the maximum amount permitted by law.
- 5.1.5.1 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.
- 5.1.5.2 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.

5.1.5.3 In determining the amount of the penalty the Court shall consider the following:

5.1.5.3.1 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;

5.1.5.3.2 The duration and gravity of the violation;

5.1.5.3.3 The effect on ground or surface water quality;

5.1.5.3.4 The cost of rectifying the damage;

5.1.5.3.5 The amount of money saved by noncompliance;

5.1.5.3.6 Whether the violation was committed willfully or intentionally;

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

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

5.1.5.3.9 The costs of enforcement to Floyd County.

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

5.1.5.4.1 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 Article without all required permits, certificates or other forms of authorization as set forth in this Article.

5.1.5.4.2 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.

5.1.5.4.3 Violation by act or omission.

To violate, by act or omission, any term, variance, modification, condition or qualification placed by Floyd County or its designated representative upon any required permit, certificate, or other form of authorization of the

use, development, or other activity upon land or improvements thereon.

5.1.5.5 In the event there are penalties assessed by the State against Floyd County and resulting from a violation of this Article, the Person responsible for such violation may be assessed the lessor 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 maintenance delinquency, is not taken in the time specified or within a reasonable time, Floyd County may undertake the corrective action, and the cost of the abatement or corrective action shall be assessed against the responsibility party, owner of the premises and/or the developer. If these costs are not paid within (90) days of 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 Article 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 Article, any violation of this Article 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 Article. In any such action, Floyd County may seek, as appropriate, any or all of the following remedies:

5.3.9.1 A temporary and/or permanent injunction;

5.3.9.2 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, to include reasonable attorney fees and costs of the action.

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 perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement may be recovered as in 5.3.7.

5.3.12 Remedies Not Exclusive. The remedies listed in this Article 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 Article be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Article 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 Article is inconsistent with any other, law, regulation, statute, or ordinance; or results in the imposition of overlapping or contradictory regulations; or if this Article 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.