

ILLICIT DISCHARGE CONTROL ORDINANCE

COMMONWEALTH OF KENTUCKY
COUNTY OF BULLITT
ORDINANCE NO. 08-13

An Ordinance Relating to the Prohibition of
Non-Stormwater Illicit Discharges to the
Municipal Storm Sewer System

BE IT ORDAINED by the Fiscal Court of Bullitt County, Kentucky:

SECTION 1 - AUTHORITY

This Ordinance is adopted pursuant to the powers granted and limitations imposed by Kentucky law, including the statutory authority granted to Kentucky counties in Kentucky Revised Statutes Chapter 67.

This Ordinance is adopted pursuant to requirements of the National Pollutant Discharge Elimination System and the Kentucky Pollutant Discharge Elimination System stormwater Phase II General Permit.

SECTION 2 – PURPOSE AND SCOPE

The requirements and procedures set forth in this Ordinance are intended to protect the general health, safety, and welfare of the citizens of Bullitt County, and more specifically:

- A. To protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act by prohibiting non-stormwater discharges to the Municipal Separate Storm Sewer System;
- B. To prohibit illicit discharges and connections to the Municipal Separate Storm Sewer System;
- C. To regulate the contribution of pollutants to stormwater discharges to the Municipal Separate Storm Sewer System by any user;
- D. To comply with all applicable state and federal requirements for clean water, including limitations on the discharge of pollutants as set forth by the Kentucky Pollutant Discharge Elimination System, and all applicable provisions of the National Pollutant Discharge Elimination System stormwater general permit for Phase II communities; and
- E. To establish legal authority to carry out all inspection, surveillance and monitoring, and enforcement procedures necessary to ensure compliance with this Ordinance.

SECTION 3 - DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

- A. *Erosion Prevention and Sediment Control ("EPSC")* is the prevention of soil erosion and control of solid material during land disturbing activities to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.
- B. *Enforcement Agency* is the Bullitt County Department of Code Enforcement.
- C. *Federal Clean Water Act* means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.)
- D. *Hazardous Materials* are any materials, including any substances, wastes, or combinations thereof, which because of their quantity, concentration, or physical, chemical, biological or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- E. *Illegal Discharge* is any direct or indirect non-stormwater substance or hazardous material disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, intentionally or unintentionally, into the Municipal Separate Storm Sewer System or any other area draining directly or indirectly into the Municipal Separate Storm Sewer System, except as exempted in Section 5 of this Ordinance. Any *Illegal Discharge* as defined herein shall be deemed a "Public Nuisance" pursuant to § 381.770, and Bullitt County Fiscal Court shall possess the authority to abate said Public Nuisance and place a lien on the subject property pursuant to the authority granted it by KRS § 67.083(3)(a).
- F. *Illicit Connection* is defined as any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the Municipal Separate Storm Sewer System. Included are conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved.
- G. *Inspector* is a person designated by the Bullitt County Department of Code Enforcement who has attended a Bullitt County-sponsored or approved training course in detection of illicit discharges.
- H. *Issuing Authority* is the Bullitt County Department of Code Enforcement.

- I. *Kentucky Pollutant Discharge Elimination System ("KPDES")* means a permit issued by the Kentucky Division of Water ("KDOW") under designated authority by the United States Environmental Protection Agency ("USEPA"), whether the permit is applicable on an individual, group or general area-wide basis.
- J. *Municipal Separate Storm Sewer System ("MS4")* of Bullitt County means a conveyance, or system of conveyances including roads with drainage systems, municipal and county streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains designed or used for collecting or conveying stormwater. Sanitary and combined sewers are not included in the definition of a municipal separate storm sewer system.
- K. *National Pollutant Discharge Elimination System ("NPDES")* is a permit program developed by the United States Environmental Protection Agency that controls water pollution by regulating point sources that discharge pollutants into waters of the United States.
- L. *Non-Stormwater Discharge* is any discharge to the Municipal Separate Storm Sewer System that is not composed solely of stormwater, except as permitted by Section 5 of this Ordinance.
- M. *Pollutant* is anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid, solid and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- N. *Premises* are the areas of land, sites, grounds, or properties on which the illegal discharge emanates.
- O. *Utility* is the owner/operator of any underground or overhead line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, potable water, stormwater, steam, sewage and other similar substances.
- P. *Watercourse* is any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.
- Q. *Watershed* is a region draining to a river, river system, or body of water.
- R. *Wetlands* are a lowland area, such as a marsh, that are saturated with moisture, as defined in Sec. 404 of the Federal Water Pollution Control Act Amendments of 1987.

SECTION 4 – GENERAL PROVISIONS

- A. Except as herein provided or exempted, this Ordinance shall apply to all non-stormwater discharges and connections to the Municipal Separate Storm Sewer System under the jurisdiction of Bullitt County Fiscal Court.
- B. The Bullitt County Department of Code Enforcement shall administer, implement, and enforce the provisions of this Ordinance.
- C. The standards and requirements set forth herein and promulgated pursuant to this Ordinance are minimum standards. This Ordinance does not intend nor imply that compliance by any person, company, or any other entity will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the Municipal Separate Storm Sewer System.

SECTION 5 - PROHIBITION OF DISCHARGES

- A. No person, company, or any other entity shall discharge or cause to be discharged into the Municipal Separate Storm Sewer System of Bullitt County any hazardous materials, including, but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge is prohibited.
- B. The construction, use, maintenance, or continued existence of Illicit Connections, as defined under this Ordinance, to the storm drain system is prohibited. This prohibition includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practice applicable at the time of connection.
- C. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the Municipal Separate Storm Sewer System, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to degradation of local water quality. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempt from this prohibition.
- D. The following non-stormwater discharges are not considered illicit discharges and therefore, are not subject to the requirements of this Ordinance. Unless the Enforcement Agency has identified them as a source of contaminants, the following categories of discharges are permitted:

1. Discharges or flows resulting from firefighting activities;
 2. A discharge or flow from lawn watering or landscape irrigation;
 3. A discharge or flow from diverted stream flow or a natural spring;
 4. Uncontaminated discharge or flow from a foundation drain, crawl space pump or footing drain;
 5. A discharge or flow from air conditioning condensation;
 6. A discharge or flow from individual residential car washing;
 7. A discharge or flow from a riparian habitat or wetland;
 8. A discharge or flow resulting from street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
 9. Drainage from a private residential swimming pool containing quantities of chlorine or other chemicals within industry-accepted volumes/amounts;
 10. A discharge or flow from any other water source not containing pollutants; and/or
 11. Upon verbal notification to the Enforcement Agency, and prior to time of the test, dye testing with non-hazardous dye.
- E. The prohibition set forth herein shall not apply to any non-stormwater discharges permitted under a KPDES or NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Kentucky Division of Water under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

SECTION 6 – RULES AND REGULATIONS

A. Elimination of Illegal Discharges:

Any person responsible for an Illegal Discharge shall immediately discontinue said discharge and, if necessary, take measures to eliminate the source of the Illegal Discharge to prevent the occurrence of future Illegal Discharges as directed by the Bullitt County Department of Code Enforcement.

B. Remediation and Restoration:

Whenever a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater entering the Municipal Separate Storm Sewer System of Bullitt County, the owner of the premises

and/or the responsible person shall remediate the pollution and restore the affected property as directed by the Bullitt County Department of Code Enforcement.

C. Monitor and Analyze:

Any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the Municipal Separate Storm Sewer System of Bullitt County shall undertake, at said person's expense, monitoring and analyses, and furnish any reports to the Bullitt County Department of Code Enforcement as deemed necessary by said agency to determine compliance with this Ordinance.

D. Notification of Spills:

Notwithstanding other requirements of federal, state and local law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, that has information of any known or suspected release of pollutants or hazardous materials resulting in or which may result in an Illegal Discharge to the Municipal Separate Storm Sewer System of Bullitt County from said facility, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of a hazardous material, said person shall immediately notify emergency response officials of the occurrence. In the event of a release of hazardous or non-hazardous materials, said person shall notify the Bullitt County Department of Code Enforcement in person or by phone or facsimile no later than 4:00 p.m. of the next business day. Notifications shall be confirmed by written notice addressed and mailed to Code Enforcement within three (3) business days of the release.

SECTION 7 – ENFORCEMENT

A. Notice of Violation:

Whenever the Bullitt County Department of Code Enforcement determines that a person, company, or any other entity has violated a provision of this Ordinance, a written Notice of Violation shall be forwarded to the responsible entity. Such Notice may request:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
5. The implementation of source control or treatment best management practices.

If abatement of a violation and/or restoration of affected property is requested, the Notice shall set forth a deadline within which such remediation or restoration should be completed. Said Notice shall further advise that should the violator fail to remediate or restore within the established deadline, the Enforcement Agency may seek the issuance of a Criminal Complaint.

B. Criminal Complaint:

Notwithstanding the issuance of a Notice of Violation as set forth above, upon a determination that a violation has occurred, the Bullitt County Department of Code Enforcement, by and through its authorized agent(s), may seek the issuance of a Criminal Complaint.

C. Abatement by Bullitt County:

An Illegal Discharge as defined under this Ordinance shall be deemed a "Public Nuisance" pursuant to KRS § 381.770. Bullitt County Fiscal Court, by and through the Bullitt County Department of Code Enforcement, shall possess the authority to abate said Public Nuisance and place a lien on the subject property pursuant to the authority granted it by KRS § 67.083(3)(a). The Bullitt County Department of Code Enforcement, or a designated contractor acting on its behalf, may enter upon the subject premises and proceed to take any and all measures necessary to abate the nuisance and/or restore the property.

D. Cost of Abatement/Lien on Property:

Any cost incurred by Bullitt County Fiscal Court, by and through its Department of Code Enforcement, in abatement of the Public Nuisance, including, but not limited to, contractor fees, Bullitt County employee labor, equipment and/or disposal charges, and administrative costs, shall be billed to the owner, lessee, occupant, or person having charge of the premises.

If the amount due is not paid within Thirty (30) days of demand for payment, then Bullitt County Fiscal Court may, pursuant to KRS § 381.770(6), place a lien on the subject property. Said lien shall attach to the property and be filed with the Bullitt County Clerk.

E. Violations:

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. It shall be unlawful for any person to hinder the Bullitt County Department of Code Enforcement or any of its inspectors in the performance of lawful duties in enforcing any of the provisions of this Ordinance.

F. Acts Potentially Resulting in a Violation of the Federal Clean Water Act:

Any person who violates any provision of this Ordinance may also be in violation of the Federal Clean Water Act and may be subject to the sanctions

imposed under said act, including civil and criminal penalties.

SECTION 8 - PENALTIES

A. Criminal Penalties:

Any person violating any of the provisions of this Ordinance shall upon conviction thereof be guilty of a Class B Misdemeanor and shall be fined in an amount not to exceed Two Hundred Fifty dollars (\$250.00), or shall be imprisoned for a term not to exceed ninety (90) days, or both such fine and imprisonment. Each day a particular violation occurs shall constitute a separate offense.

B. Civil Penalties:

In addition to the criminal penalties set forth above, any person convicted of violating any of the provisions of this Ordinance shall be liable to Bullitt County Fiscal Court for a civil penalty in an amount not to exceed Four Thousand dollars (\$4,000.00) for each offense. Each day a particular violation occurs shall constitute a separate offense. Said civil penalty may be assessed and imposed by Bullitt District Court, pursuant to KRS § 24A.120.

SECTION 9 - INTERPRETATION AND APPLICATION

This Ordinance shall be interpreted, construed and applied to insure consistency with the requirements of Kentucky law, the Federal Clean Water Act and all amendments thereto, and any Kentucky Pollutant Discharge Elimination System and/or National Pollutant Discharge Elimination System permits.

SECTION 10 - INCONSISTENT ORDINANCES REPEALED

All Ordinances which are hereafter found or determined to be in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 11 - SEVERABILITY

Should any part or section of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, all other parts or sections of this Ordinance which are not found to be unconstitutional or otherwise invalid shall survive and remain in full force and effect.

SECTION 12 - EFFECTIVE DATE

This Ordinance shall take effect and be in full force on August 1, 2008.

Given First Reading at a Regular Meeting of the Fiscal Court of Bullitt County,
Kentucky on the 6th day of May, 2008.

Given Second Reading at a Regular Meeting of the Fiscal Court of Bullitt County,
Kentucky on the 20th day of May, 2008.

Voted upon at a Regular Meeting of the Fiscal Court of Bullitt County, Kentucky on
the 3rd day of June, 2008.

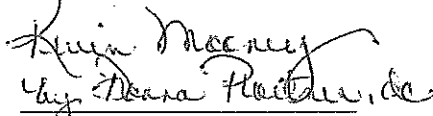
Vote: 4 For; 0 Against; 0 Abstain (Esq. Bleemel absent)

BULLITT COUNTY FISCAL COURT

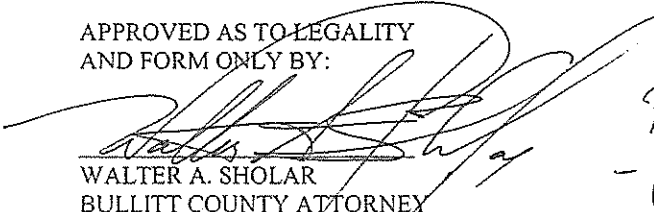
June 3, 2008
DATE


MELANIE J. ROBERTS
COUNTY JUDGE/EXECUTIVE

ATTESTED TO:


KEVIN MOONEY
BULLITT COUNTY CLERK

APPROVED AS TO LEGALITY
AND FORM ONLY BY:


WALTER A. SHOLAR
BULLITT COUNTY ATTORNEY

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Recorded in:
- fiscal Court Order
book 38 pages 462-463
- County Ordinance
book 3 pages 745-749.