

ORDINANCE 2004-_____

**AN ORDINANCE REGULATING DRAINAGE DISCHARGES
FROM PRIVATE DRAINS, TILES AND OTHER DISCHARGES ON TO
COUNTY ROADS AND / OR COUNTY ROAD RIGHT-OF-WAYS
AND FIXING PENALTIES FOR VIOLATION THEREOF**

WHEREAS, THE BOARD OF COMMISSIONERS of the County of Kosciusko has the power to regulate the use of public ways and right-of-ways; and

WHEREAS, THE BOARD OF COMMISSIONERS has the authority to establish service charges reasonably related to the cost of services provided; and

WHEREAS, THE BOARD OF COMMISSIONERS has determined that the unregulated drainage discharges from private drains and other sources on to county roads and county road right-of-ways may create a hazard to the health and safety of the users of the county highway system.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the County of Kosciusko as follows:

- I. This ordinance replaces Ordinance 87-7 enacted on December 8, 1987.
- II. Definitions:
 - A. The term “Road” means the driving surface and refers to any type of surface such as asphalt, concrete, or gravel.
 - B. The term “Right-of-way” means the land under the driving surface and beyond the edges of the driving surface that the Public has the right to use and the Board of Commissioners has the right to control.
 - C. The term “County Highway Engineer” means the Kosciusko County Engineer / Superintendent.
 - D. The term “Drainage Discharge” means any draining of water or other liquid from a watercourse, creek, river, stream, ditch, swale, tile, drain, sewer, basement drain, roof drain, sump pump, septic field drain, or similar private drain. It does not include eave spouts from a single family dwelling or duplex.

- E. The term “Eave spout” means a pipe that drains rainwater from a roof during a rainstorm.
 - F. The term “Single Family Dwelling” means a detached residential dwelling unit designed for and occupied by one family only.
 - G. The term “Duplex” means a free standing single dwelling structure designed with two (2) separate living units and having one single contiguous foundation and roof line and whose separate units share at least one (1) common enclosed wall.
- III. SECTION 1. That no person, firm or corporation shall cause drainage discharge on to any county road or any county right-of-way without having first secured a drainage discharge permit.
- IV. SECTION 2. That the Kosciusko County Highway Engineer is hereby authorized to grant a discharge permit to persons, firms and corporations to cause a drainage discharge upon county roads and county road right-of-ways.
- V. SECTION 3. The Kosciusko County Highway Engineer shall, in instances where persons, firms or corporations are currently causing a drainage discharge on to the county road or county road right-of-ways, advise such persons in writing that their continued drainage discharge on to the county road or county road right-of-way is subject to obtaining a discharge permit.

Written Notice shall provide a time limit for obtaining said drainage discharge permit or otherwise obtaining conditional approval pending construction of satisfactory facilities to meet the requirements of the County Highway Engineer. (The minimum time limit must be at least 30 calendar days. If weather or other conditions warrant, the County Highway Engineer may extend the time limit.)

- VI. PERMIT APPLICATION FEE: Prior to performing any activity resulting in any drainage discharge onto the right-of-way, a permit application shall be approved by the Kosciusko County Highway Engineer. A non-refundable \$40.00 fee must be submitted with the permit application.
- VII. APPLICATION PROCEDURES: Unless the County Highway Engineer determines that the permit application is for an entire project, a separate permit is required for each discharge. Applicants shall covenant and agree faithfully to perform and discharge duties and responsibilities required in the application. The County Highway Engineer shall have the authority to act upon the application and issue the permit unless some fact of circumstance known to him exists raising a question as to whether or not such permit should be issued, in which event he shall refer the application to the Board of Commissioners.

VIII. VIOLATIONS: Any person, firm or corporation who violates any provision of this Ordinance shall be deemed to have committed an Ordinance violation. Violators shall be fined not more than \$100.00 for the first violation and \$100.00 for the second and each subsequent violation. Each calendar day a violation continues after the expiration of the time set forth in any written notice given by the Kosciusko County Highway Engineer hereunder shall be deemed a separate violation. However, the maximum allowable fine shall not exceed \$1000.00 per drainage discharge site.

IX. ENFORCEMENT EXPENSES: Any person, firm or corporation violating any provision of this Ordinance shall, in addition to any fine, be required to pay unto Kosciusko County any costs, expense, loss or damage suffered by the County due to the violation, including its reasonable attorney fees in the enforcement of this Ordinance.

X. EFFECTIVE DATE: This Ordinance shall be in full force and effect after its adoption and publication as required by law.

Dated this _____ day of _____, 20 _____.

BOARD OF COMMISSIONERS, Kosciusko County

Ron Truex, President

Bradford Jackson, Member

Avis Gunter, Member

Attest: Sue Ann Mitchell
Kosciusko County Auditor