

ORDINANCE NUMBER 12-51

**AN ORDINANCE OF THE CITY OF RICHMOND, KENTUCKY
FOR THE CONTROL OF
POST-CONSTRUCTION STORMWATER RUNOFF**

WHEREAS, the City of Richmond now operates under the requirements of the Kentucky Pollutant Discharge Elimination System (KPDES), and

WHEREAS, the City of Richmond has a stormwater permit which provides authorization to discharge under the KPDES general permit for small municipal separate storm sewer systems, and

WHEREAS, one of the six (6) minimum control measures required is Post Construction Stormwater Management in New Development and Redevelopment, and

WHEREAS, the City of Richmond is required to prevent or reduce post-construction stormwater runoff from active construction sites that disturb less than one acre, and projects less than one acre that are part of a larger common plan of development, and

WHEREAS, the City of Richmond must be compliant with the MS4 stormwater permit and finds it necessary to enact an ordinance to prevent or reduce post-construction stormwater runoff from active construction sites that disturb at least one acre, or projects less than one acre that are part of a larger common plan of development.

NOW, THEREFORE BE IT ORDAINED by the City of Richmond Board of Commissioners:

SECTION 1 AUTHORITY

(A) This ordinance is adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to Kentucky cities in KRS Chapters 67 and 100.

(B) This ordinance and all references made herein is adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act, and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.

(C) The Planning and Zoning Department for the City of Richmond and their duly authorized designees are responsible for implementing all the provisions within and referenced by this ordinance.

SECTION 2 PURPOSE AND SCOPE

The regulations set forth in this ordinance are intended to protect the general health, safety, and welfare of the citizens of the city by establishing a set of water quality and quantity policies to provide reasonable guidance for the regulation of stormwater runoff in all public and private developments for the purpose of preserving local water resources from degradation. This ordinance seeks to meet that purpose through the following objectives:

- (1) To protect and enhance the municipal separate storm sewer system (MS4), community waters and waters of the Commonwealth;
- (2) To maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding;
- (3) Improve stormwater quality through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety; and
- (4) To provide long-term responsibility for and maintenance of stormwater Best Management Practices (BMP).

These regulations for stormwater management apply to the development or redevelopment of land for residential, commercial, industrial, or institutional use, but do not apply to agricultural land management practices.

SECTION 3 APPLICABILITY

This ordinance shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Richmond under the specifications of this ordinance and Stormwater Procedures Manual. This ordinance also applies to land development activities that are smaller than one (1) acre if such activities are part of a larger common plan of development as established in KPDES permit number KYG200000.

When a site development plan is submitted that qualifies as a redevelopment project as defined in the Stormwater Procedures Manual, decisions on permitting and on-site stormwater requirements shall be made after a review by the City of Richmond. Each redevelopment project shall have no net increase in imperviousness.

SECTION 4 UTILIZATION OF BMP RESOURCES

The City of Richmond may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements for this ordinance in the form of approved Best Management Practices (BMP), which will be located in the City of Richmond's Stormwater Procedures Manual. The Stormwater Procedures Manual will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards. Until the development of this resource, information on stormwater BMPs is available at EPA's National Menu of Stormwater Best Management Practices (<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/>).

SECTION 5 REQUIREMENTS FOR STORMWATER MANAGEMENT PLAN APPROVAL

No application for development will be approved unless it includes a Stormwater Management Plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. The Stormwater Procedures Manual outlines accepted design criteria and the information required for submittal in the Stormwater Management Plan.

For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater concept plan, measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this ordinance to the maximum extent practicable.

The Stormwater Management Plan(s) must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Stormwater Procedures Manual or EPAs National Menu of Stormwater Best Management Practices, as applicable. No Land Disturbance Permit shall be issued until a satisfactory final Stormwater Management Plan, or a waiver thereof, has been reviewed and approved by the City of Richmond. The review process will determine that the plan or waiver is consistent with the requirements of this Ordinance. By approving a plan under this chapter, the City of Frankfort does not accept responsibility for the design, installation, and operation and maintenance of stormwater BMPs.

SECTION 6 MAINTENANCE AGREEMENTS

All stormwater treatment practices shall have an enforceable Operation and Maintenance Agreement to ensure the system functions as designed. This agreement will include any and all easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

SECTION 7 ENFORCEMENT

The City of Richmond shall be responsible for the enforcement of this Ordinance. The Planning and Zoning Director, Chief Enforcement Officer, or their duly authorized representatives have the authority to issue notices of violation (NOVs), citations, and levy fines as described below.

(A) The City of Richmond shall be responsible for the enforcement of this ordinance. Duly authorized representatives have the authority to issue Notices of Violation (NOV), citations, and levy fines as described below.

(B) Enforcement procedures may be utilized if any of the following conditions exist:

- (1) Structural and/or non-structural BMPs are not being installed or maintained per manufacturer's specifications and/or City of Richmond;
- (2) Construction is not in compliance with the approved Stormwater Management Plan;
- (3) Maintenance of permanent stormwater BMPs is not sufficient after construction; or

(4) Any of the conditions of this Ordinance are not being met.

(C) Enforcement Procedures

- (1) For the purposes of this Ordinance, a NOV and/or citation is official by posting a copy of the notice of violation and/or citation on the construction site in reasonable proximity to a location where the violation is taking place. Additionally, a copy of the violation and/or order shall be mailed by first class mail, postage pre-paid, to the address listed by the responsible party on the Operation and Maintenance Agreement. In the case of work for which there is no Operation and Maintenance Agreement, a copy of the violation and/or order shall be mailed to the person listed as the landowner of the property.
- (2) NOVs are the first level of enforcement and do not include a penalty, or fine. Only one NOV will be issued for an offense before citations are utilized. An offense of the same nature as a previous offense, even if previously corrected under a NOV, will constitute a second offense to be enforced through a citation. Offenses enforced through a NOV must be corrected within five (5) calendar days of the date of issuance or a citation will be issued.
- (3) Citations shall include a penalty, or fine, for each occurrence and payable to the Issuing Authority prior to release.
 - First Citation = \$1000.00 fine.
 - Second Citation = \$2000.00 fine and Notice of Intent letter.
- (4) For violations where no Operation and Maintenance Agreement has been recorded, the City of Richmond will notify the property owner or Responsible Party and cooperate for resolution prior to enforcement. Should the Responsible Party not provide stormwater structure maintenance or demonstrate a history of non-compliance of the same nature, the City of Richmond may request the City Attorney to seek to obtain injunctive relief.
- (5) Ten (10) calendar days after issuing the citation, the City of Richmond may issue a Notice of Intent to the Responsible Party, landowner, or land user stating the City of Richmond's intent to perform work necessary to comply with this Ordinance. The City of Richmond may go on the land and commence work after fourteen (14) days from issuing the notice of intent. The costs incurred by the City of Richmond to perform this work shall be paid by the property owner or Responsible Party. The cost, plus interest at the rate authorized by the City of Richmond, plus a reasonable administrative and attorneys fee shall be billed to the property owner. Failure to reimburse the City within thirty (30) days of billing will result in a lien being placed on the property.
- (6) Compliance with the provisions of this Ordinance may also be enforced by injunction.
- (7) The City of Richmond is authorized to require immediate abatement of any violation of this Ordinance that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately, the City of Richmond is authorized to enter onto private or public property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of Richmond shall be fully reimbursed by the property owner and/or responsible party. The cost, plus interest at the rate authorized by the City of Richmond, plus a reasonable administrative and attorneys

fee shall be billed to the property owner. Failure to reimburse the City within thirty (30) days of billing will result in a lien being placed on the property.

- (8) Any person, firm, corporation or agency acting as principal, agent, employee or otherwise, who fails to comply with the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00), or by imprisonment for not more than ninety (90) days, or both, for each separate offense. Each day there is a violation of any part of this Ordinance shall constitute a separate offense.

For the purpose of this ordinance, the ultimate party responsible for assuring compliance with the conditions set forth is the property owner.

(Ord. 9, 2005, passed 6-27-05)

SECTION 8 COMPATABILITY WITH OTHER PERMITS AND ORDINANCE REQUIREMENTS

The requirements of this chapter should be considered minimum requirements, and where any provisions of this chapter impose restrictions different from those imposed by any other applicable ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SECTION 9 SEVERABILITY

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

SECTION 10 ADOPTION OF ORDINANCE

This ordinance shall be effective immediately after adoption by the Board of Commissioners after second reading and publication in accordance with applicable Kentucky law.

DATE OF FIRST READING: November 27, 2012
MOTION BY: Commissioner Baird
SECONDED BY: Commissioner Thomas

DATE OF SECOND READING: December 11, 2012
MOTION BY: Commissioner Thomas
SECONDED BY: Commissioner Morgan

VOTE	YES	NO
Commissioner Baird	X	
Commissioner Blythe	X	
Commissioner Morgan	X	
Commissioner Thomas	X	
Mayor Barnes	X	

Mayor Barnes

ATTEST: _____
City Clerk