

ORDINANCE NO. 12-52

AN ORDINANCE OF THE CITY OF RICHMOND STATING THE EROSION PREVENTION AND SEDIMENT CONTROL REQUIREMENTS AND REPEALING ORDINANCE 03-56 .

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 storm water permit which provides authorization to discharge under the KPDES general permit for small municipal separate storm sewer systems (MS4), and

WHEREAS, one of the six (6) minimum control measures required is Construction Site Stormwater Runoff Control, and

WHEREAS, the City of Richmond is required to develop, implement and enforce a program to reduce pollutants from any storm water runoff from construction activities that result in a land disturbance at least one acre, or 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 storm water permit and finds it necessary to enact an ordinance to control construction site runoff.

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

Section 1 Authority

1. This ordinance shall be adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the enforcement authority granted to Kentucky cities in KRS 83A.065.
2. 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.
3. 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 Intent

The regulations set forth in this Ordinance are intended to protect the general health, safety, and welfare of the citizens of the City of Richmond, and more specifically;

1. Control or eliminate soil erosion and sedimentation resulting from land disturbing activities within the City of Richmond;
2. Establish guidelines, conservation practices and planning activities which minimize soil erosion and sedimentation;
3. 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 (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination Systems storm water general permit for Phase II communities.

This Ordinance controls land disturbances, soil storage, and erosion and sedimentation resulting from such activities and establishes procedures for issuance, approval, administration, and enforcement of a Grading or Building Permit.

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/or City of Richmond's Stormwater Procedures Manual (Stormwater Manual). This ordinance applies to land disturbance activities that are less than one (1) acre, if such activities are part of a larger common plan of development as established in KPDES permit number KYG200000.

Procedures, forms, and submittal requirements for obtaining the necessary permits for Land Disturbance activities in the City of Richmond are located in the Stormwater Manual.

Section 4 Inspections

This Ordinance provides the City of Richmond and its duly authorized representatives the following:

1. The right to enter and inspect construction sites with any land disturbances for the presence of properly installed and functioning erosion and sediment control Best Management Practices (BMPs) and to assure compliance with the site specific Stormwater Pollution Prevention Plan (SWPPP).

2. The right to review the records of the Permittee and/or his contractor at both on and off-site locations that pertain to the development, installation, maintenance, and operation of the SWPPP.
3. The right to require modifications to the SWPPP along with the correlating physical placement of the modifications at the site, when in the opinion of the City, the current BMPs are not functioning to the degree necessary to prevent or minimize erosion or to provide proper sediment control. All expense for modifications required by the City shall be born by the permittee and/or their contractor. No expense for proper BMP maintenance or operation shall be borne by the City.

Section 5 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, stop work orders (SWOs), and levy fines as described below.

1. Enforcement shall include the following outline, with five working days being allowed for the correction of each non-compliant occurrence before the next enforcement action for that occurrence is administered:
 - a. First Occurrence Non-Compliance – Issue Notice of Violation (NOV). Only one NOV will be issued for an offense before Stop Work Orders (SWO) 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 Stop Work Order.
 - b. Second Occurrence or Continued Non-Compliance – First Stop Work Order includes a \$250 penalty, or fine payable to the City of Richmond prior to release.
 - c. Third Occurrence or Continued Non-Compliance – Second Stop Work Orders includes a Five Hundred Dollar per calendar Day (\$500/C-day) fine payable to the City of Richmond that will accrue until the site is brought back into compliance. Additionally, a complaint will be filed with Kentucky Division of Water.
2. For violations where nor a Grading or Building Permit has been issued, the City of Richmond will notify the Responsible Party and cooperate for resolution prior to enforcement. Should the Responsible Party not cease the land disturbance activity 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.
3. Six (6) calendar days after posting a stop-work order, the City of Richmond may issue a notice of intent to the Permittee, landowner, or land user stating the City of

Richmond's intent to perform work necessary to comply with the 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 landowner or Permittee out of the fiscal surety referred to in this Ordinance, to the extent that the amount is covered thereby, with the remainder being directly due and owed by the landowner or Permittee. In the event no Grading or Building Permit was issued or no construction guarantee was posted, 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 owner. Failure to reimburse the City within thirty (30) days will result in a lien being placed on the property.

4. Compliance with the provisions of this Ordinance may also be enforced by injunction.
5. 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 owner. Failure to reimburse the City within thirty (30) days of notice will result in a lien being placed on the property.
6. 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.
7. For the purpose of this ordinance, the ultimate party responsible for assuring compliance with the conditions set forth is the property owner.

Section 6 Ordinance No. 03-56 is hereby repealed in its entirety.

This ordinance shall be in full force and effect upon second reading, passage and publication by the City of Richmond Board of Commissioners.

DATE OF FIRST READING: November 27, 2012

MOTION BY: Commissioner Thomas

SECONDED BY: Commissioner Blythe

DATE OF SECOND READING: December 11, 2012

MOTION BY: Commissioner Thomas
SECONDED BY: Commissioner Baird

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

Mayor

Attest:

City Clerk