

## ORDINANCE 10-06-1090

### AN ORDINANCE OF THE CITY OF RADCLIFF, HARDIN COUNTY, KENTUCKY REGARDING STORM WATER RUNOFF CONTROL AND QUALITY MANAGEMENT

**WHEREAS**, the City wishes to adopt an ordinance regarding storm water run off control and quality management.

**NOW THEREFORE**, Be it ordained by the City Council of the City of Radcliff, Hardin County, Kentucky that a new ordinance is created as follows:

#### Section 1 - Title, Purpose, and General Provisions

- 1.1 This Ordinance shall be known as the "Storm Water Quality Management Ordinance" for the City of Radcliff ("the City"), Kentucky, and may be so cited.
- 1.2 The purpose of this Ordinance is to provide regulations and measures that will address storm water quality in the City and to establish procedures by which these requirements are to be administered and enforced.
- 1.3 Jurisdiction
  - 1.3.1 The laws of the Commonwealth of Kentucky shall apply to this ordinance.
  - 1.3.2 The Storm Water Quality Management Ordinance shall govern all properties within the jurisdictional boundaries of the City.
  - 1.3.3 This Ordinance is applicable to all new development and redevelopment activities that result in the disturbance of 5,000 square feet or more of land including disturbance of less than that if part of a larger common plan.
- 1.4 The following activities are exempt from the provisions of this Ordinance:
  - 1.4.1 Agricultural and Silviculture (woodland production) operations according to an Agricultural Water Quality Plan approved by the City Conservation District or approved as required in the Kentucky Agricultural Water Quality Plan developed in accordance with the Kentucky Agricultural Water Quality Authority.
  - 1.4.2 Land reclamation projects regulated by the Kentucky State Department for Surface Mining Reclamation and Enforcement.

#### Section 2 - Definitions and Acronyms

- 2.1 Accidental Discharge means a discharge of spills and dumping or any disposal of materials other than storm water into the system.
- 2.2 Best Management Practices (BMP's) shall mean those measures described in the latest edition of the "National Menu of Best Management Practices, Post-Construction Storm Water Management in New Development and Redevelopment" found at <http://cfpub.epa.gov/KPDES/stormwater/menuofbmps/index.cfm> as published by the United States Environmental Protection Agency (USEPA), "*Kentucky Erosion Prevention and Sediment Control Field Guide*" as published by the Kentucky Division of Water, "*Best Management Practices for Construction*

*Activities*" as published by the Kentucky Division of Conservation and Division of Water and *Kentucky Construction Site BMP Planning and Technical Specifications Manual* developed by the KDOW and KYTC. This shall also include related documents published and distributed by the City.

- 2.3 Builder shall mean a person, partnership, contractor, or corporation constructing one or more buildings for occupancy or any other use.
- 2.4 Certification shall mean a signed, written statement that specific construction, inspections or tests (when required) have been performed and that such comply with the applicable requirements of this subtitle.
- 2.5 City shall be the City of Radcliff government.
- 2.6 City Representative shall mean the person or persons currently designated by the Mayor to administer the Storm Water Program and any related permit activities.
- 2.7 Clean Water Act means the Federal Water Pollution Control Act (33 U.S.C § 1251 et seq.)
- 2.8 Contractor shall mean a person who contracts with the Permittee, landowner, builder, developer or another contractor to undertake any or all of the land-disturbing activities covered by this Ordinance.
- 2.9 Construction Activity means land disturbance activities subject to state KPDES General Construction Permits or local permits. Such activities include, but are not limited to clearing and grubbing, grading, excavating, and demolition.
- 2.10 Construction Weather Days shall mean days in which a needed activity could occur.
- 2.11 Detention Basin shall mean a drainage facility constructed to restrict the runoff of storm water to a prescribed maximum rate and to detain for a specified period of time the excess waters that accumulate upstream from the outlet structure.
- 2.12 Development shall mean the planning or construction project involving substantial property improvement and, usually, a change of land-use character within the site; the act of using land for building purposes.
- 2.13 Directly Connected Impervious Area (DCIA) shall mean surface area that drains / discharges to an outfall without passing through a BMP.
- 2.14 Drainage Area shall mean the surface area from which water drains to a point of consideration.
- 2.15 Engineer shall mean a person licensed as a Professional Engineer in the Commonwealth of Kentucky in accordance with KRS 322.
- 2.16 Erosion Prevention and Sediment Control (EPSC) Measure shall mean the practice, or a combination of practices, to prevent erosion and to abate the resulting off-site sedimentation.
- 2.17 FEMA shall be used to refer to the Federal Emergency Management Agency.
- 2.18 Final Stabilization shall mean that (1) all soil disturbing activities at the site have been completed; (2) there are no areas of active erosion evident; and (3) a uniform perennial vegetative cover with a density of 85% of the cover for the area has been established or equivalent measures, i.e. mulches or geotextile fabrics, have been employed.

- 2.19 Floodplain shall mean any area inundated by a 100-year flood or as determined by the FEMA Flood Insurance Rate Map(s) or an engineering study.
- 2.20 Floodway shall mean the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the peak flow of the regulatory flood of any river or stream. The floodway is where the water is likely to be fastest and not include the channel and the portion of the adjacent floodplain.
- 2.21 Illicit Discharge means any discharge to a Municipal Separate Storm Sewer System (MS4) that is not composed entirely of storm water exempted by this Ordinance or managed pursuant to a Kentucky Pollution Discharge Elimination System permit (other than The City's KPDES storm water permit) or otherwise defined by this Ordinance.
- 2.22 Industrial Activity means activities subject to KPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- 2.23 KDOW shall be used to refer to the Kentucky Division of Water.
- 2.24 Kentucky Pollutant Discharge Elimination System (KPDES) Storm Water Discharge Permit 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.
- 2.25 Land-Disturbing Activity shall mean all clearing and grubbing, clear cutting, construction, reconstruction, grading, modification, extension or expansion of structures or parking areas, placement of fill and dumping that change the natural cover or topography, thereby creating the potential for erosion and contribution of sediment.
- 2.26 Landowner shall mean a Person holding legal title who directly or indirectly allows the land-disturbing activity or who benefits from it.
- 2.27 Land surveyor shall mean a person licensed as a Professional Land Surveyor in the Commonwealth of Kentucky according to KRS 322.
- 2.28 Municipal Separate Storm Sewer System (MS4) shall mean a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is designed or used for collecting or conveying storm water; not privately owned; not a combined sewer; and not part of a publicly owned treatment works (POTW).
- 2.29 NOI shall be used to refer to Notice of Intent.
- 2.30 Non-Storm Water Discharge means any discharge to the storm drainage system that is not composed entirely of storm water or otherwise allowed by this Ordinance.
- 2.31 NOT shall be used to refer to Notice of Termination.
- 2.32 Outfall shall mean the point or location where storm water runoff discharges from a BMP, conduit, stream or drain, storm sewer, channel, or detention/retention facility.
- 2.33 Perimeter Outfall shall mean the locations from which storm water flow(s) from the project site / disturbed area.
- 2.34 Perimeter Control Plan (PCP) is a component of the Storm Water Quality Management Plan that documents how sediment is controlled from leaving the project site.

- 2.35 Permittee shall mean the "Person responsible for the Land-Disturbing Activity"; who must have ownership interest in the property and is designated on an approved SWQMP permit.
- 2.36 Person shall mean, except to the extent exempted from this Ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, town, or other political subdivision of the State, any interstate body or any other legal entity conducting land-disturbing activities subject to this Ordinance.
- 2.37 Pollutant means anything of a chemical component or nature which causes or contributes to pollution.
- 2.38 Pollution means the contamination or other alteration of any water's physical, chemical, or biological properties by the addition of a constituent.
- 2.39 Post-Construction Storm Water Pollution Prevention Plan (P-SWPPP) is a component of the Storm Water Quality Management Plan that illustrates how the pollutants or pollution will be prevented, treated and otherwise managed in the long-term, beyond that of construction phases.
- 2.40 Premises mean any building, lot, parcel of land, or portion of land whether improved or unimproved.
- 2.41 Project Site shall mean the area of Land Disturbing Activity.
- 2.42 Qualified Professional shall mean an individual who is trained and experienced in storm water treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of coursework, as accepted according to this Ordinance, that enable the individual to make sound, professional judgments regarding storm water control or treatment and monitoring, pollutant fate and transport, and drainage planning.
- 2.43 Redevelopment projects are classified as any activity that requires the submittal of a development plan. Existing single family structures are exempt from redevelopment requirements.
- 2.44 Retention Basin shall mean a drainage facility constructed to contain the runoff of storm water to a prescribed maximum rate/volume to pass into the groundwater system without discharging the retained volume to surface waters except through an emergency bypass under conditions beyond the designed capacity.
- 2.45 Site shall mean the entire area or project site of the land-disturbing activity as proposed in the permit application.
- 2.46 Stop Work Order shall mean an order by the City directing a Permittee to suspend all Construction and/or operations except for work related to remediation of the violation.
- 2.47 Storm Sewer shall mean channel, ditch, catch basin, inlet pipe, culvert, conduit or other conveyance used for the purposes of collecting and conveying storm water.
- 2.48 Storm Water Quality Management Plan (SWQMP) shall mean illustration and documentation of how sediment and other pollutants are managed on the project site during and after the construction phase. This is composed of three primary elements: 1) the Perimeter Control Plan, 2) the Storm Water Pollution Prevention Plan, and 3) the Post-Construction Storm Water Pollution Prevention Plan.

- 2.49 Storm Water Quality Management Plan (SWQMP) Permit is a legal document that allows the permit holder to break ground or disturb soil on a site within the provisions of a SWQMP.
- 2.50 Storm Water Pollution Prevention Plan (SWPPP) is a component of the Storm Water Quality Management Plan that illustrates how the suspension of sediment and other construction pollutants will be prevented.
- 2.51 Waters of the Commonwealth means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the Commonwealth of Kentucky which are not entirely confined and retained completely upon the property of a single Person.

### **Section 3 - Program Objectives and General Approach**

#### **3.1 Program Objectives**

- 3.1.1 Protection of the short-term and long-term public health, safety, and general welfare. This objective will be achieved by the following:
  - 3.1.1.1 Providing for regulation and management of the City's storm water system, including public and private facilities in the City's service area.
  - 3.1.1.2 Protecting, and preserving storm water quality and thereby fish and wildlife habitat within the City and in downstream receiving waters.
  - 3.1.1.3 Protecting those downstream and adjacent properties from storm water quality impairment.
- 3.1.2 Compliance with state and federal storm water regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments. This objective will be achieved by the following:
  - 3.1.2.1 Benefiting storm water quality to a level of "designated use" as defined by the Clean Water Act Section 305(b) and 303(d) and minimizing the impacts from new development and/or areas of significant redevelopment.
  - 3.1.2.2 Managing the quality of storm water discharged to the MS4 by controlling the contribution of pollutants associated with new development and redevelopment.
  - 3.1.2.3 Prohibiting Illicit discharges to storm water.
  - 3.1.2.4 Managing the discharge of spills and dumping or any disposal of materials other than storm water into the system.
  - 3.1.2.5 Managing storm water pollution caused by the suspension and transport of soils, sediment and other construction pollutants.
  - 3.1.2.6 Minimizing damage to public facilities and utilities.
  - 3.1.2.7 Managing the use of the public and private storm water / drainage system that will not result in excessive maintenance costs.
  - 3.1.2.8 Encouraging the use of natural and aesthetically-pleasing designs that maximize the preservation of natural areas.

- 3.1.2.9 Guiding the construction of storm water management facilities by developing comprehensive master plans that address storm water quantity, quality, design, operation, and maintenance.
- 3.1.2.10 Encouraging the preservation of floodplains, floodways and open spaces to protect and benefit the community's quality of life and natural resources.
- 3.1.2.11 Encourage the planning for and use of regional BMPs.

## 3.2 **General Approach for Development**

- 3.2.1 To most effectively achieve the program objectives, the City promotes an approach that encourages the consideration and use of:
  - 3.2.1.1 Regional BMPs.
  - 3.2.1.2 Low-impact development design principles.
  - 3.2.1.3 Waterway buffers.
  - 3.2.1.4 Low maintenance on-site BMPs.
  - 3.2.1.5 A series of Multiple BMP treatment systems.
- 3.2.2 The City will encourage a primary preference for regional BMPs through:
  - 3.2.2.1 Enabling and facilitating private partnerships where on-site storm water quantity and/or quality requirements may be achieved or offset by watershed based solutions.
  - 3.2.2.2 Enabling and supporting private to public partnerships, offsets and regional BMP banking, and in-lieu fee funds.
- 3.2.3 In support of this approach, the City integrates into the planning and construction plan review processes, when and where available, the use of:
  - 3.2.3.1 City Council adopted watershed studies.
  - 3.2.3.2 City Council adopted master plans.
  - 3.2.3.3 City of Radcliff Storm Water Design Manual
  - 3.2.3.4 City of Radcliff Storm Water Credit Policy Program
  - 3.2.3.5 FEMA floodplain delineations.
  - 3.2.3.6 USEPA, KDOW 303(d) reports.

## **Section 4 - Authority and Right of Entry**

- 4.1 Upon request to the Person, the City shall have safe and easy access to the areas to be inspected and/or monitored.
  - 4.1.1 The City shall have the right-of-entry on or upon the project site. The City shall be provided access to all parts of the premises subject to this Ordinance for the purposes of inspection, monitoring, sampling, and for the performance of other duties necessary to determine compliance with this Ordinance.
  - 4.1.2 Where a project site has security measures in place which require proper

identification and clearance of individuals before entry into its premises, the Person shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification and written request, the City will be permitted to enter without delay for the purposes of performing specific responsibilities.

- 4.1.3 The City shall have the right to set up on a project site such devices necessary to conduct sampling and/or metering of the storm water operations or discharges.
- 4.1.4 Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored that can reasonably be moved shall be removed promptly by the Person at the written or verbal request of the City. The costs of clearing such access shall be borne by the Person.
- 4.1.5 The City or its designated representative may inspect the facilities of any user in order to ensure compliance with this Ordinance. Such inspections shall be made with the consent of the owner, manager, or signatory official. If such consent is refused, denied or not promptly addressed, the City may seek issuance of a search warrant.
- 4.1.6 The City has the right to determine and impose inspection schedules necessary to enforce the provisions of this Ordinance. Inspections may include, but are not limited to, the following:
  - 4.1.6.1 An initial inspection prior to storm water management plan approval;
  - 4.1.6.2 An inspection prior to burial of any underground drainage structures;
  - 4.1.6.3 Erosion control inspections as necessary to determine effective control of sediment prior to discharge to the municipal separate storm sewer system;
  - 4.1.6.4 A finish or closeout inspection when all work, including installation of storm management facilities, has been completed; and
  - 4.1.6.5 An inspection to determine the effectiveness or operational viability of a permanent or long-term storm water quality management practice(s).

## **Section 5 - Illicit Discharge Detection and Elimination**

### **5.1 Prohibition of illegal discharges**

- 5.1.1 Pursuant to the Kentucky Pollutant Discharge Elimination System (KPDES) Municipal Separate Storm Sewer System (MS4) Program, illicit discharges to the MS4 are defined as illegal. Except as hereinafter provided, all non storm water discharges into the MS4 are prohibited and declared to be unlawful.
- 5.1.2 It is unlawful for any Person to connect any pipe, open channel, or any other conveyance system that discharges anything except storm water or unpolluted water, which is approved by the City based on exemptions listed

in Section 5.2 below, to the storm water system.

- 5.1.3 It is unlawful for any Person to discharge waters from residential construction activities that are not complying with the Standard of Practice for Residential Construction Storm Water Management as approved and advertised by the City.
- 5.1.4 In addition to illicit discharges, the discharge of spills and the dumping and/or disposal of materials other than storm water, including, but not limited to, unpermitted (KPDES) industrial and commercial wastes, commercial car wash wastes, sanitary sewage, garbage, yard waste, trash, petroleum products, including used motor vehicle fluids, as well as leaf litter, grass clippings, and animal wastes into the MS4, whether directly or indirectly, are prohibited, unless authorized under a KPDES permit.

## 5.2 Allowable Discharges

- 5.2.1 Unless the City has identified a discharge as an unacceptable source of pollutants to the "Waters of the Commonwealth of Kentucky", the following non-storm water discharges into the MS4 are lawful:
  - 5.2.1.1 Discharges from emergency fire fighting activities;
    - 5.2.1.2 Diverted stream flows;
    - 5.2.1.3 Rising ground waters;
    - 5.2.1.4 Uncontaminated groundwater infiltration to separate storm sewer systems (as defined by 40 CFR35.2005(20));
    - 5.2.1.5 Uncontaminated pumped ground water;
    - 5.2.1.6 Discharges from potable water sources as required for system maintenance;
    - 5.2.1.7 Drinking water line flushing, de-chlorinated through City accepted BMP's;
    - 5.2.1.8 Air conditioning condensate;
    - 5.2.1.9 Uncontaminated landscape irrigation;
    - 5.2.1.10 Uncontaminated irrigation water;
    - 5.2.1.11 Lawn watering;
    - 5.2.1.12 Uncontaminated springs;
    - 5.2.1.13 Uncontaminated water from crawl space pumps;
    - 5.2.1.14 Uncontaminated water from footing drains and pumps;
    - 5.2.1.15 Individual residential car washing;
    - 5.2.1.16 Flows from riparian habitats and wetlands;
    - 5.2.1.17 Swimming pool discharges de-chlorinated through City accepted BMPs;
    - 5.2.1.18 Controlled flushing storm water conveyances (contained and treated by appropriate BMPs);
    - 5.2.1.19 Discharges within the constraints of a Kentucky Pollutant

Discharges Elimination System (KPDES) permit from the Kentucky Division of Water (KDOW); and

5.2.1.20 Discharges approved at the discretion of the City representative.

### 5.3 Accidental discharges

5.3.1 In the event of any discharge of a hazardous substance in amounts that could cause a threat to public drinking supplies, a spill having a significant adverse impact as defined by the USEPA and Kentucky State Law, or any other discharge that could constitute a threat to human health or the environment, as may be asserted by the City, the owner or operator of the facility shall give notice to the City and the KDOW as soon as practicable, but in no event later than four (4) hours after discovery of the accidental discharge or the discharger becomes aware of the circumstances.

5.3.2 If an emergency response by governmental agencies is needed, the owner or operator should call 911 immediately to report the discharge. A written report must be provided to the City within five (5) days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the City for good cause shown as determined by the City or its designee on a case-by-case basis, containing the following information:

5.3.2.1 A description of the discharge including volumes and concentrations;

5.3.2.2 The exact dates and times of discharge; and

5.3.2.3 Steps being taken to eliminate and prevent recurrence of the discharge.

5.3.3 The discharger shall take all reasonable steps to minimize any adverse impact to the MS4 or the Waters of State, including accelerated or additional monitoring necessary to determine the nature and impact of the discharge. It shall not be a defense, for the discharger in an enforcement action, to claim that it would have been necessary to halt or reduce the business or activity of the facility in order to maintain storm water quality and minimize any adverse impact that the discharge may cause.

## Section 6 – Storm Water Quality Management Plan (SWQMP) Permit Application Process

6.1 The landowner shall obtain from the City a SWQMP Permit prior to the initiation of any land-disturbing activities that result in the disturbance of 5,000 square feet or 2,000 square feet if part of a larger common plan.

6.2 This Storm Water Quality Management Plan Permit (SWQMP) alone does not authorize or grant permission to begin development or redevelopment on subject property. It does not supersede other permits required by the City, State, and Federal Governments.

6.3 Project site owners, as applicable in Section 6.1, shall submit an application for a SWQMP on forms provided by the City.

6.4 Applications must include a Notice of Intent (NOI), Perimeter Control Plan (PCP), Storm Water Pollution Prevention Plan (SWPPP), Post-Construction Storm Water

Pollution Prevention Plan (P-SWPPP), and any other necessary information or documentation requested by the City. The NOI requirements are included in Section 6.6 of this Ordinance.

- 6.5 The PCP and SWPPP are components of the SWQMP. While both plans may be approved simultaneously, the provisions of a PCP shall be implemented, inspected and accepted by the City prior to implementing the SWPPP and P-SWPPP and before other construction proceeds.
- 6.6 The landowner must notify the City and the Kentucky Division of Water (KDOW) within 7-days prior to the commencement of construction activities through the submittal of an updated NOI.
  - 6.6.1 Submittal for a SWQMP Permit application shall include a NOI letter, as required by 401 KAR 5:055 and 401 KAR 5:060, with proof of publication of a Public Notice, Construction Plans, a Perimeter Control Plan, a Storm Water Pollution Prevention Plan, Post-Construction Storm Water Pollution Prevention Plan, and any other necessary information or documentation requested by the City.
  - 6.6.2 The NOI letter, proof of publication of public notice, and construction plans for the SWQMP Permit shall be submitted to the City.
- 6.7 Upon completion of construction activities, stabilization of the project site and removal of all temporary erosion protection and sediment control measures, the applicant shall submit a NOT. The City, or its designated representative, shall inspect the project site to verify that the requirements of the NOT have been met.
- 6.8 The City reserves the right to require a checklist of necessary items to be completed and included with the SWQMP Permit application submittal. Upon submittal, the SWQMP application shall be rejected in its entirety should any item on the checklist be incomplete.
- 6.9 The City reserves the right to collect fees associated with SWQMP Permit application, plan review, and inspections from the applicant.

## **Section 7 - Construction Site Runoff Management**

### **7.1 Perimeter Control Plan**

The Permittee shall secure the perimeter prior to any land disturbance to decrease off-site sedimentation once construction begins.

#### **7.1.1 Control Plan Objectives**

- 7.1.1.1 Focus on downstream points and outfall areas and does not necessitate protection of the entire site boundary.
- 7.1.1.2 Protect adjacent properties by the use of vegetated strips along lower perimeters, sediment barriers, filters, diversion berms, sediment basins or other means acceptable to the City.
- 7.1.1.3 Protect all points of discharge from outlets such as pipes, drains, culverts, conduits and channels.
- 7.1.1.4 Minimize erosion and control sedimentation.
- 7.1.1.5 Reduce the velocity of flows from the project site.

## 7.1.2 Control Plan Requirements

- 7.1.2.1 The Permittee shall utilize sediment control measures that consider the type of flow, site terrain, soil type and other relevant factors.
- 7.1.2.2 Buffer strips may only be utilized for sheet flow.
- 7.1.2.3 Supplemental control measures shall be utilized when a single control device or measure proves ineffective.
- 7.1.2.4 Location and description of construction entrances and exits that comply, or exceed, the BMP minimum standards. All sites require sufficient temporary construction entrances to ensure that sediment is not tracked off of the construction site.

## 7.2 Perimeter and Outfall Inspections

- 7.2.1 The Perimeter and Outfall Protection Inspection must be performed prior to the Permittee's breaking ground or disturbing soil with exception for installation of sediment control practices at the hydrologic perimeter and outfall(s) of a construction site. The inspection shall include participation by the City, the Permittee and the Permittee's Contractor.
- 7.2.2 The Perimeter and Outfall Protection Inspection may only be performed after the review and acceptance by the City of a Perimeter Control Plan.
- 7.2.3 Clearing, except that necessary to establish perimeter sediment control devices, shall not begin until perimeter and outfall sediment control devices have been installed and have been stabilized. Activities necessary to establish the perimeter controls are exempt from initial inspection.
- 7.2.4 The City shall inspect the proposed construction site within seven (7) normal business days after the submittal of the plan and installation of the perimeter protection devices.
  - 7.2.4.1 The inspector shall either approve the portion of work completed or notify the Permittee where the work fails to comply with the approved perimeter protection plan.
  - 7.2.4.2 Failure by the City to perform the inspection within seven (7) normal business days will allow the Permittee to begin land disturbing activities, but may be subject to subsequent inspections by the City and revisions in the Perimeter Protection Plan.
  - 7.2.4.3 Inspection of perimeter and outfall protection measures shall consist of an inspection of each type of protective measure to ensure that it was installed according to the approved plan and site-specific conditions.
  - 7.2.4.4 Measures shown on the plan may be modified at the time of inspection pursuant to agreement between the City and the Permittee's Engineer or Qualified Professional.

### 7.3 Other Inspections

The City may inspect a permitted construction site in order to determine compliance with this Ordinance. The City may determine and establish inspection schedules necessary to enforce the provisions of this Ordinance within access provided in Section 4.

### 7.4 Storm Water Quality Management Plan (SWQMP) Permit ("Storm Water Permit")

7.4.1 By accepting the Permit, the Permittee automatically acknowledges and accepts that the City has the right to perform inspections of the project site.

7.4.2 The Permittee shall complete a Permit application that includes a Storm Water Pollution Prevention Plan (SWPPP), Perimeter Control Plan (PCP), and Post-Construction Storm Water Pollution Prevention Plan (PSWPPP) to be completed, sealed and signed by a Licensed Professional Engineer and/or land surveyor as appropriate and submitted to the City Representative.

7.4.3 The plan shall include and/or address the following elements:

7.4.3.1 Area Vicinity Map showing current zoning, adjoining property owners, and street lines within one hundred feet (100') of the project boundaries all drawn at a scale not greater than 1" = 2,000'.

7.4.3.2 North arrow and its basis.

7.4.3.3 Legend explaining symbols and abbreviations used on the plan.

7.4.3.4 "Do Not Disturb Limits" for construction activity indicated by a heavy dashed line and labeled as such.

7.4.3.5 Boundary of site defined by bearings and distances and indicated by a heavy solid line.

7.4.3.6 Drawing(s) at a scale not greater than 1" = 100'. In the case of an unusually large development, a scale of 1" = 200' may be acceptable.

7.4.3.7 Acreage of the total site and acreage of the project site (if different).

7.4.3.8 Soil Classifications.

7.4.3.9 Existing and Proposed runoff coefficients.

7.4.3.10 Directly Connected Impervious Area (DCIA)

7.4.3.11 Impervious Areas as measured in square feet.

7.4.3.12 Benchmark location(s), description(s) and elevation(s) at sea level.

7.4.3.13 Basis of elevation datum.

7.4.3.14 Name, address and telephone number of the owner, developer, Permittee and project engineer.

7.4.3.15 Existing and proposed topography at two-foot contour intervals.

- 7.4.3.16 Mapping accuracy shall conform to National Standards of Mapping.
- 7.4.3.17 Location of conservation zones, sinkholes, streams, steep slopes, known springs and watercourses.
- 7.4.3.18 Location of any existing buildings or structures.
- 7.4.3.19 Location of any pertinent utilities, sanitary sewers, water and storm water facilities on the property or within 50 feet of the site.
- 7.4.3.20 Elevations, dimensions, locations and the extent of all planned grading indicated with proposed contours.
- 7.4.3.21 A grading plan for borrow pits, quarries and material-processing facilities based on the findings of soil site investigations.
- 7.4.3.22 Design details of temporary and permanent structural controls.
- 7.4.3.23 Approximate location of the 100-year floodplain or a statement by a Professional Engineer or Professional Land Surveyor that the site is not located in an area subject to flooding. The basis for this determination shall be shown.
- 7.4.3.24 A detailed cost estimate for installation and maintenance of all storm water management control measures.
- 7.4.3.25 Identification of perimeter controls at outfalls and areas where construction site drainage leaves the property boundary or disturbed area(s).
- 7.4.3.26 Arrows indicating drainage flow patterns.
- 7.4.3.27 Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures.
- 7.4.3.28 Temporary stabilization plans and sequence of implementation including seeding mixture, method of seedbed preparation and kind and quantity of mulching.
- 7.4.3.29 Permanent stabilization plans and sequence of implementation including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching.
- 7.4.3.30 A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and construction of buildings, final grading and landscaping. Sequencing shall identify the expected date each activity will occur and the expected duration of each. A description should be given describing the relationship between implementation of storm water quality measures and phases of construction activities. Phasing of construction should be performed to limit disturbed areas to twenty (20) acres.
- 7.4.3.31 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 waste concrete.
- 7.4.3.32 Name of Receiving Waters

7.4.3.33 Management practices or other controls to address the following:

- 7.4.3.33.1 Waste concrete management
- 7.4.3.33.2 Material delivery, handling and storage
- 7.4.3.33.3 Sanitary/ septic waste management
- 7.4.3.33.4 Solid waste/ trash and debris management
- 7.4.3.33.5 Vehicle and equipment cleaning, fueling and Maintenance
- 7.4.3.33.6 Sensitive and vegetated area preservation
- 7.4.3.33.7 Pit and channel dewatering operations
- 7.4.3.33.8 Contaminated soil management as defined and approved by the Kentucky Divisions of Water and Waste Management
- 7.4.3.33.9 Hazardous materials and waste management as defined and approved by the Kentucky Divisions of Water and Waste Management
- 7.4.3.33.10 Pesticides, herbicides and fertilizer use
- 7.4.3.33.11 Long-term storm water quality treatment
- 7.4.3.33.12 Blowing of dust or sediment from the site

7.4.3.34 Plan for stabilizing the entire site at the end of the construction season. If vegetation cannot be established, site shall have a heavy mulch layer (straw or wood chips) applied to control erosion.

7.4.4 Plan Revisions

The Permittee shall notify the City in writing of any substantial field changes made to the approved Storm Water Quality Management Plan. Changes made to the Plan must be approved by the City Engineer.

7.4.5 Plan Review and Permit Issuance

The City shall review the SWPPP within a reasonable time frame, typically thirty (30) calendar days, from date of submission and issue or deny the requested permit. Failure to do so will allow the Person to proceed with land-disturbing activities in accordance with BMPs and the submitted SWPPP. However, the City still reserves the right to review and require changes it determines appropriate.

7.4.6 Requirements for Individual Lots

7.4.6.1 An Erosion and Sediment Control Permit is required for all individual lots and shall be completed and signed prior to the issuance of a building permit for the site.

7.4.6.2 All storm water management measures necessary to comply with this Ordinance must be implemented in accordance with the permitted plan for the larger project and adhere to the general standard or those of a common area plan.

7.4.6.3 The individual Permittee is responsible for the installation and maintenance of all erosion prevention and sediment control measures until the site is stabilized.

- 7.4.6.4 The Permittee, whether owning the property or acting as the representative of the property owner, shall submit to the City the following information for review and approval prior to the issuance of a building permit:
  - 7.4.6.4.1 Dimensions, existing drainage patterns and swales, location of the proposed or of any existing buildings and the location of any natural features that are pertinent to this Ordinance;
  - 7.4.6.4.2 Proposed drainage patterns;
  - 7.4.6.4.3 Location of the construction entrance to the site; and
  - 7.4.6.4.4 8 ½" x 11" site plan showing the location of perimeter erosion and sediment control measures prior to land disturbance.
- 7.4.6.5 Temporary erosion prevention and sediment control measures may be removed for completion of the finish grade. Permanent stabilization to include either sod or mulched-seeding as appropriate for seasonal conditions shall be completed within fourteen (14) days prior to removal of temporary erosion prevention and sediment control measures.

## **Section 8 - Post-Construction Storm Water Management**

### **8.1 Storm Water Quality Management**

- 8.1.1 The Permittee shall complete a Permit application that includes a Post-Construction Storm Water Pollution Prevention Plan (P-SWPPP) to be completed, sealed and signed by a Licensed Professional Engineer and/or land surveyor as appropriate and submitted to the City Representative.

### **8.2 Post-Construction Storm Water Pollution Prevention Plan**

A SWQMP Permit requires a review and submittal of a Post-Construction Storm Water Pollution Prevention Plan (P-SWPPP). The P-SWPPP shall include the following information:

- 8.2.1 A description of the proposed land use including amount of impervious area, directly connected impervious area, and nature of the development.
- 8.2.2 Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality Best Management Practices (BMPs), as defined in the City guidance documents.
- 8.2.3 A sequence describing when each post-construction storm water quality BMP will be installed.
- 8.2.4 A *Long-Term Operation and Maintenance Agreement* containing maintenance guidelines for all post-construction storm water quality measures to facilitate their proper long-term function. This Agreement shall be made available to future parties, including property owners, who will assume responsibility for the

operation and maintenance of the post- construction storm water quality measures.

- 8.2.5 The P-SWPPP shall include provisions for Buffers.
  - 8.2.5.1 The Waterway Buffer will be used to define areas where land disturbance activities shall be permitted, but construction of any building or structure shall not be permitted.
  - 8.2.5.2 A waterway buffer shall be applied to all waterways serving more than 25 acres of tributary area or presented on a United State Geological Survey map as a blue line stream.
  - 8.2.5.3 The waterway buffer shall be defined as the greater of:
    - 8.2.5.3.1 Area contained within a boundary established by the floodplain boundary as defined by FEMA or City master planning; or
    - 8.2.5.3.2 Where a floodplain is not defined or calculated, The buffer will be 25-feet on each side from the top of waterway bank as defined by geomorphic shape (not by the current water surface elevation).
  - 8.2.5.4 The waterway buffer and floodplain may be used for application of storm water quality devices. This may only be permitted if erosion prevention and sediment control, water quality, and cut-fill policies are adequately addressed as determined by the City according to the provisions of this Ordinance.
  - 8.2.5.5 Exemptions are granted so long as, erosion prevention and sediment control, water quality and cut-fill policies are adequately addressed. Exemptions shall be granted for:
    - 8.2.5.5.1 Roads and utilities crossing waterways.
    - 8.2.5.5.2 Pedestrian trails and walkways proximate to waterways.
    - 8.2.5.5.3 Other exemptions may be made at the discretion of the City Representative.
- 8.2.6 A Licensed Professional Engineer in the Commonwealth of Kentucky shall stamp all construction plans and long-term maintenance documentation. This shall include all proposed improvements or modifications to existing or new storm water infrastructure and other related improvements or modifications.
- 8.2.7 The City may require the posting of a maintenance bond to secure the structural integrity of said facilities as well as the functioning of said facilities in accordance with the approved Post-Construction SWPPP for a term of twenty-four (24) months from the date of acceptance of dedication. An irrevocable letter of credit can be used as the financial assurance in lieu of a maintenance bond although the contribution shall be equivalent to the amount that would be estimated for the maintenance bond. The maintenance bond shall be calculated as 20% of the estimated construction cost and may be reduced to 10% after twelve (12) months if there are no concerns by the City Representative.

### 8.3 **BMP Design Requirements and Criteria**

- 8.3.1 The City reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by the City should be reviewed and considered when preparing the Post-Construction SWPPP. These documents may be applied as standards by which designs are to be prepared and controls implemented.
- 8.3.2 The City shall have authority to implement this Ordinance by appropriate regulations, guidance or other related materials. In this regard, technical, administrative, or procedural matters may be modified as needed to meet the objectives defined herein, so long as such modifications as to technical, administrative, or procedural matters are not contrary or beyond the intent of the objectives defined above.
  - 8.3.2.1 Regulations, guidance or other related materials that may be given authority by this Ordinance may include, but are not limited to: Best Management Practice (BMP) manuals, design regulations and requirements, submittal checklists, review checklists, inspection checklists, certifications, storm water management manuals and operation and maintenance manuals.
  - 8.3.2.2 Materials may include information deemed appropriate by the City including guidance and specifications for the preparation of grading plans, selecting environmentally sound practices for managing storm water, minimum specifications and requirements, more complete definitions and performance standards.
  - 8.3.2.3 The above referenced documents may restrict or prevent the use of specific products, techniques or management practices (that are to be accepted by the public or are deemed to have a negative impact on public infrastructure or the MS4) that have been identified as unacceptable for performance, maintenance or other technically based reasons.
  - 8.3.2.4 Documents referenced above may be updated periodically to reflect the most current and effective practices and shall be made available to the public. However, the failure to update the manual shall not relieve any applicant from the obligation to comply with this Ordinance, and shall not prevent the City from imposing the most current and effective practices.
- 8.3.3 The P-SWPPP shall include provisions for storm water quality BMPs functioning independently or in combination. Acceptable storm water quality BMPs shall be defined by policy and guidance documents as approved by the Storm Water Board.
- 8.3.4 The P-SWPPP shall include provisions for storm water quality BMPs that are designed to achieve the following design / performance objectives:
  - 8.3.4.1 Development shall be designed with management measures that are built and maintained to treat, filter, flocculate, infiltrate, screen, evapo-transpire, harvest and reuse stormwater runoff, or otherwise

manage the stormwater quality produced from an 80<sup>th</sup> percentile precipitation event (0.75" rainfall).

- 8.3.4.2 Reduce or buffer increases in storm water runoff temperature caused by contact with impervious surfaces.
- 8.3.4.3 Reduce or buffer increases in storm water runoff volume and flow rate caused by increases in directly connected impervious area and overall impervious area.
- 8.3.4.4 Storm water detention/ retention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge over the critical design-storm period if defined by City storm water master plans. The outlet structure shall be designed as a v-notch weir or other multiple stage configurations capable of controlling (limiting) the discharge rates for the first flush, 2-, 10-, 25- and 100-year design-storm events to pre-developed levels for new developments.

Redevelopment shall reduce the discharge from their site according to formula below:

$$Q_{(redeveloped)} = \frac{Q_{(existing)} + Q_{(undeveloped)}}{2.0}$$

$Q_{(redeveloped)}$  = maximum discharge rate for the re-development

$Q_{(existing)}$  = current discharge rate of the developed parcel

$Q_{(undeveloped)}$  = discharge rate of the parcel prior to any development

The reduction of the existing discharge rate per the above formula shall be limited to twenty percent (20%).

- 8.3.4.5 Storm water hotspots are areas that often produce higher concentrations of certain pollutants, such as hydrocarbons or heavy metals, than are normally found in urban runoff. These areas will be reviewed for effective removal of the particular pollutant which they discharge. Effective removal shall be deemed as that which existed prior to development of the site or in the case of redevelopment that which existed prior to any development to the site. Review and approval is required prior to commencement of construction.

Examples of storm water hotspots include:

1. Gas/fueling stations
2. Restaurants
3. Vehicle repair facilities
4. Vehicle washing / steam cleaning facilities
5. Auto recycling facilities
6. Outdoor material storage areas
7. Loading and transfer areas
8. Landfills
9. Industrial sites
10. Industrial rooftops

- 8.3.5 Soil bioengineering, "green" and other "soft" slope and stream bank stabilization methods shall receive preference over rip rap, concrete and other hard armoring techniques.
- 8.3.6 Retention - Supportive data must be submitted to justify the type of facility selected. If the facility is designed to retain (volume control) all or a significant portion of runoff (as opposed to temporarily detain), then appropriate soils analyses findings shall be submitted to the City. This submission shall also discuss the impacts the facility will have on local karst topography as found through a geotechnical investigation of the site. The facility may be designed to infiltrate runoff to groundwater rather than transmit it downstream under conditions up to a 10-year storm event. It must be able to bypass all other storms including 100-year event with a discharge rate equivalent to or less than pre-development conditions without negatively impacting the 100-year floodplain above or below the site. If data indicates that the facility can not retain a significant portion of the runoff (95%) then the facility must be designed to detain runoff.
- 8.3.7 If available, each P-SWPPP shall be evaluated for consistency with the storm water master plan or watershed study for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if storm water quantity and quality management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which storm water quantity and/or quality controls will be necessary.
- 8.3.8 The City reserves the right to require superseding or additional treatment criteria or objectives for specific pollutant(s) as necessary to meet overall storm water quality management program objectives or directives under a watershed improvement or Total Maximum Daily Load (TDML) program as administered by the USEPA or Commonwealth of Kentucky.
- 8.3.9 On-site BMP Coordination with Regional BMPs
  - 8.3.9.1 All properties are expected to implement on-site storm water quality control measures, but the extent of application may be reduced given the availability, proximity and nature of regional storm water quality BMPs.
  - 8.3.9.2 The extent and type of on-site storm water quality management practices implemented shall be proportionate to the land use, and proximity to regional storm water quality management practices.

#### 8.4 **BMP Ownership and Easements**

- 8.4.1 Any storm water management facility or BMP which services individual property owners shall be privately owned. General routine maintenance (controlling vegetative growth and removing debris) shall be provided by the owner(s). The owner shall maintain a perpetual, non-exclusive easement that allows for access for inspection and emergency maintenance by the City. The City has the right, but not the duty, to enter premises for emergency repairs.

- 8.4.2 Any storm water management facility or BMP which services an individual residential subdivision in which the facility or BMP is within designated open areas or serves as an amenity with an established homeowners association shall be privately owned and maintained consistent with provisions of this Ordinance. The owner shall maintain a perpetual, nonexclusive easement which allows access for inspection and emergency maintenance by the City. The City has the right, but not the duty, to enter premises for emergency repairs.
- 8.4.3 Any storm water management facility or BMP which services commercial and industrial development shall be privately owned and maintained. The owner shall maintain a perpetual, nonexclusive easement which allows access for inspection and emergency maintenance by the City. The City has the right, but not the duty, to enter premises for emergency repairs.
- 8.4.4 All regional storm water management control facilities proposed by the owners, if approved and accepted by the City for dedication as a public regional facility, shall be publicly owned and/or maintained. All other storm water management control facilities and BMPs shall be privately owned and/or maintained unless accepted for maintenance by the City.
- 8.4.5 The City may require dedication of privately owned storm water facilities, which discharge to the City storm water system. This shall be at the approval of the City Council.

## **8.5 Regional Facilities Management**

- 8.5.1 The objective of a regional storm water management facility, pond or other device, is to address the storm water management concerns in a given watershed with greater economy and efficiency than possible through individual facilities. The intended result is fewer storm water management facilities to maintain in the affected watershed while sustaining efficiency.
- 8.5.2 The City encourages regional storm water quantity and/or quality management practices, serving 25 to 250 acres of tributary area, which may be consistently and efficiently managed and maintained. These types of practices will be encouraged in order to replace or reduce the implementation of on-site storm water quantity and/or quality management practices, as determined to be appropriate by the City.
- 8.5.3 Where a regional storm water management facility has been established by one (1) or more local governments, or by an authority operating on behalf of one (1) or more local governments, a development or property may participate in said program in lieu of runoff control required by this Ordinance. This may be permitted provided that:
  - 8.5.3.1 Runoff from the development drains to an approved existing or proposed public regional storm water management facility that will be operational within one (1) year.
  - 8.5.3.2 Participation in the form of contribution of funds, contribution of land, contribution of storm water management facility construction work, or a combination of these, the total value of which shall be in accordance with a fee schedule adopted by the City.
  - 8.5.3.3 The City finds that the storm water quality management plans are

in compliance with all other applicable requirements and Ordinances.

8.5.3.4 Each fiscal or in-kind contribution from a development owner participating in a regional storm water quality management facility shall be used for acquisition, design, construction or maintenance of one (1) or more such facilities in the same watershed in which the development is located.

8.5.4 Detention facilities may, and are encouraged to, be designed to serve multiple purposes. For example, runoff may be detained under wet-weather conditions, but also serve as common or recreational areas during dry weather conditions. Where multi-purpose facilities are provided, or where flat grades or poorly draining soils are encountered, provisions for adequate low-flow storm water management system may be required. Where the retention/ detention facility is planned to be used as a lake, pond or storm water quality management practice with a permanent pool, water budget calculations shall be performed and submitted to demonstrate that an adequate permanent pool depth is expected during dry summer months.

## 8.6 Long-Term Operation and Maintenance Agreements

8.6.1 *Long-Term Operation and Maintenance Agreements* shall include a maintenance plan for all storm water quality BMPs in new development or redevelopment that require more than general maintenance (e.g. periodic mowing).

8.6.1.1 The plan will be developed to ensure that the storm water quality BMP(s) is (are) kept functional. The maintenance agreement will specify minimum operation and maintenance requirements and intervals to be performed by the property owner.

8.6.1.2 The plan shall address schedules for inspections and techniques for operation and maintenance including vegetation clearing or mowing and removing accumulated trash, debris, sediment pollutants and other forms of pollution.

8.6.1.3 The Agreement shall be noted on the final plat with the appropriate notation on the particular lot(s).

8.6.1.4 The Agreement shall be included with property ownership title documents and shall be binding on the OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.

8.6.1.5 The format for the *Long-Term Operational and Maintenance Agreement* shall be provided through example by the City, or through guidance documents.

8.6.1.6 Storm Water Detention and Retention Maintenance - Care must be taken to ensure that any required facilities do not become nuisances or health hazards. Detention and retention facilities should be designed to require minimal maintenance, and maintenance expectations must be clearly stated in the *Long-Term Operation and Maintenance Agreement*.

- 8.6.1.7 When a storm water quality BMP serves more than (1) parcel, a home or property owners' association or binding contract for the purpose of operation and maintenance is required. The owners association shall be responsible for operation and maintenance as directed by this Ordinance.
- 8.6.2 Single entity ownership – Where the permanent storm water runoff control facilities are designed to manage runoff from property in a single entity ownership, the maintenance responsibility for the storm water control facilities shall be with the single entity owner.
- 8.6.2.1 A single entity shall be defined as an association, public or private corporation, partnership firm, trust, estate or any other legal entity allowed to own real estate exclusive of an individual lot owner.
- 8.6.2.2 The stated responsibilities of the entity shall be documented in the *Long-Term Operation and Maintenance Agreement*. Terms including owning, operating and maintaining the facilities shall be submitted with plans in application for a SWQMP Permit for an adequacy determination. Approval of a SWQMP shall be conditioned upon the approval of these terms. These terms shall be in writing, shall be in recordable form, and shall, in addition to any other terms deemed necessary by the City, contain a provision permitting inspection at any reasonable time by the City of all facilities deemed critical in the public welfare.
- 8.6.2.3 Upon approval of the storm water quality BMPs by the City, the facility owner(s) shall demonstrate the ability to guarantee and apply the financial resources necessary for long-term maintenance requirements. The funding mechanism shall be in a form approved by the City. The City will only approve funding mechanism(s) for long-term maintenance responsibilities that can be demonstrated to be permanent or transferable to another entity with equivalent longevity.
- 8.6.2.4 In the event that proposed funding is through an owners association, then it must be demonstrated that the association may not dissolve unless long-term operation and maintenance activities are accepted by another entity with equivalent longevity and adequate funding. Furthermore, the owners association's responsibility must be stated in the association's declaration, covenants, or by-laws, as appropriate.
- 8.6.2.5 Unless made specifically clear in the preliminary stages of the site design and construction plan review procedure, it will be assumed that all storm water detention, retention, treatment or storage facilities and/or devices shall be owned, operated and maintained by a single entity as defined above.
- 8.6.3 City Ownership – Where the City has accepted an offer of dedication of the permanent storm water quality BMPs, the City shall be responsible for operation and maintenance.

## **Section 9 – Storm Water Quality Management Plan Permit Inspections**

### **9.1 Permittee Performed Inspections**

- 9.1.1 Permittee performed inspections (self inspections) shall be performed by a Qualified Professional.
- 9.1.2 The City shall develop standards and a checklist to be used by the Permittee for the inspections.
- 9.1.3 Documentation of owner performed inspections and inspection findings shall be kept on site, if appropriate facilities are available.
- 9.1.4 Documentation of owner performed inspections and inspection findings shall be made available within two (2) business days for construction and seven (7) days for post-construction of a request by the City or designated representative. Failure to timely submit documentation, as requested, will be assumed to indicate that inspections were not performed and may result in corresponding enforcement procedures.
- 9.1.5 **Construction Inspections**  
Maintenance inspections shall be performed at control measures at least every seven (7) regular calendar days and within twenty-four (24) hours of a one-half (0.5) inch rain event. The Permittee shall repair all deficiencies within seven (7) calendar days after deficiencies or failures have been identified.
- 9.1.6 **Post-Construction Inspections**  
Inspection and maintenance shall be performed at storm water quality BMPs on at least an annual basis and as otherwise determined in the *Long-Term Operation and Maintenance Agreement*.

### **9.2 Oversight Inspections**

- 9.2.1 The City, or the City's designated representative, has the authority to randomly and periodically inspect the storm water quality BMPs. The City may make inspections of the site at its discretion and shall either approve the condition of the BMP or shall notify the Permittee wherein the condition fails to comply with the approved SWQMP.
- 9.2.2 The City or its designated representative's inspections and findings will be presented and reviewed with the Permittee at the time of inspection (if site personnel are available), and be available in the City public records.
- 9.2.3 The City shall identify in writing any measures with deficiencies or that are not in compliance with the objectives of this Ordinance and the SWQMP Permit. A sight inspection will be mailed to the responsible person for the site listing all deficiencies for the sight. The Permittee shall repair all deficiencies within seven (7) calendar days after deficiencies or failures have been identified.

## **Section 10 - Qualified Professional**

A Qualified Professional is required to perform Construction and Post-Construction inspections and to direct and/or supervise maintenance activities to ensure that the SWQMP Permit and *Long-Term Operation and Maintenance Agreement* provisions are being implemented properly.

### **10.1 Effect**

Section 10 Qualified Professional shall be effective and enforced on January 1, 2011.

### **10.2 Registration**

Qualified Professionals performing inspections or overseeing maintenance activities under this Ordinance must be registered by the City prior to execution of those actions. All applicants must file an application with the City.

### **10.3 Construction Qualified Professional Prerequisites**

10.3.1 Applicants must demonstrate knowledge and experience in the following areas:

10.3.1.1 Construction practices;

10.3.1.2 Operational standards;

10.3.1.3 Cause and failure indicators; and

10.3.1.4 Maintenance measures used to prevent and correct failures.

10.3.2 Applicants who can demonstrate one or more of the following will be considered for registration:

10.3.2.1 Successful completion and passage of the Kentucky Erosion Prevention and Sediment Control course and examination through the University of Kentucky Transportation Center.

10.3.2.2 Professional Engineer license in good standing in the Commonwealth of Kentucky with demonstrated experience in erosion prevention and sediment control on construction sites.

10.3.2.3 Landscape Architect license in good standing in the Commonwealth of Kentucky with demonstrated experience in erosion prevention and sediment control on construction sites.

10.3.2.4 Professional in Erosion and Sediment Control Certification in good standing.

10.3.2.5 EPSC Inspector Certification in good standing from the Louisville and Jefferson County Metropolitan Sewer District.

10.3.2.6 Similar qualification or certification of any other similar program in the Commonwealth of Kentucky or in the United States so long as that program required a test and the applicant passed the test.

10.3.3 Documentation demonstrating the above will be required by the City before registration will be granted.

#### 10.4 **Post-Construction Qualified Professional Prerequisites**

- 10.4.1 Applicants must demonstrate knowledge and experience in the following areas:
  - 10.4.1.1 Storm water quality treatment practices;
  - 10.4.1.2 Operational standards;
  - 10.4.1.3 Cause and failure indicators; and
  - 10.4.1.4 Maintenance measures used to prevent and correct failures.
- 10.4.2 Applicants who can demonstrate one or more of the following will be considered for registration:
  - 10.4.2.1 Professional Engineer license in good standing in the Commonwealth of Kentucky with demonstrated experience in storm water quality treatment BMPs.
  - 10.4.2.2 Landscape Architect license in good standing in the Commonwealth of Kentucky with demonstrated experience in storm water quality treatment BMPs.
  - 10.4.2.3 Professional in Storm Water Quality Certification in good standing.
  - 10.4.2.4 Similar qualification or certification of any other similar program in the Commonwealth of Kentucky or in the United States so long as that program required a test and the applicant passed the test.
- 10.5 The City may report to the appropriate licensing, certification or qualification authority for activities not consistent with the policies and procedures identified in this ordinance. This may include reporting activities that include but are not limited to, the submittal of false or misleading information or for repeated incompetence or negligent actions by the registrant.

#### **Section 11 – Storm Water Quality Management Plan Permit Termination**

- 11.1 The Permittee shall submit a Notice of Termination (NOT) of Permit letter to the City.
- 11.2 Written acceptance of site conditions shall be made by the City based upon an inspection.
- 11.3 The City shall consider whether conditions are sufficient, appropriate and consistent with the SWQMP.
- 11.4 A Permit shall be considered open and active until the City accepts the site conditions, a Long-Term Operation and Maintenance Agreement has been accepted, and after the following as-built requirements have been completed:
  - 11.4.1 Temporary erosion and sediment control measures have been removed.
  - 11.4.2 The remaining, undeveloped acreage that was subject to the permit does not exceed five (5) acres.
  - 11.4.3 The designed public utilities are installed and have been inspected by the appropriate agencies.
  - 11.4.4 The road(s) have been constructed and the binder course of pavement has

been placed in accordance with the standards in the Subdivision Regulations.

- 11.4.5 The remaining undeveloped acreage that was subject to the Permit does not pose a significant threat to the integrity of the infrastructure, adjacent properties or storm water quality.
- 11.4.6 Permanent storm water quality BMPs and other measures have been implemented and are operational at the designed levels.
- 11.4.7 Pipes, channels, catch basins, storm water quality treatment devices and other drainage features are clear of sediment, obstructions and debris, and are operating as designed and appropriate for final site conditions.
- 11.4.8 Disturbed slopes are stabilized.
- 11.4.9 Detention and retention basins are stabilized at designed volumes and conditions.
- 11.4.10 The City shall have twenty-one (21) normal business days to perform an inspection and respond to the request. If the City does not respond within the twenty-one (21) normal business days, then the request shall be granted automatic approval.

## **11.5 As-built Requirements**

- 11.5.1 Prior to issuance of a Certificate of Occupancy, recording of the final plat or final release of bond, the as-built condition (including: invert elevations, size shape and location) of critical storm water management features must be identified, approved, and provided in a electronic form to the City Representative.
- 11.5.2 The volume, slopes, configuration, condition and topographic information of all detention, retention and water quality practices shall be certified by a Professional Engineer or Land Surveyor, as appropriate, licensed in the Commonwealth of Kentucky. This information shall be provided to the City, in the form of an as-built drawing or other electronic form accepted by the City. The as-built certification shall indicate if final conditions are consistent with, or exceed, the SWQMP provisions.
- 11.5.3 If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site does not meet or exceed the SWQMP provisions, the City reserves the right to withhold Certification of Occupancy or final bond release. Furthermore, other enforcement mechanisms may be applied to the Permittee or persons making certifying statements.
- 11.5.4 The requirements of this subsection do not apply for individual residential lot development.

## **Section 12 - Enforcement, Penalties and Appeals**

### **12.1 Responsibility**

It will be the responsibility of the Permittee to ensure compliance with this ordinance and implementation of the SWQMP Permit and *Long-Term Operation and Maintenance Agreement*. However, all responsible persons, regardless of ownership, must comply with the requirements of this ordinance and may be held accountable to the enforcement provisions herein.

### **12.2 Disconnection of Illicit Discharges**

12.2.1 The Person responsible for any connection in violation of Section 5 of this ordinance, with regard to illicit discharges, shall immediately cause the illegal connection to be disconnected and redirected, if necessary, to the appropriate sanitary sewer system upon approval by the operating body of said sanitary sewer system and the Kentucky Division of Water.

### **12.3 Liability of Expenses Incurred**

12.3.1 Any Person responsible for illicit discharges or noncompliance with BMPs at any residential, industrial and/or construction site(s), and who fails to correct any prohibited condition or discontinue any prohibited activity at the order of the City, shall be liable to the City for expenses incurred in abating pollution. This may include expenses incurred in testing, measuring, sampling, collecting, removing, treating, and disposing of the polluting materials and preventing further noncompliance and/or illicit discharges.

### **12.4 Enforcement**

12.4.1 The City shall institute appropriate actions or proceedings by law or equity for the enforcement of this ordinance within the areas of jurisdiction previously described. 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 the City from taking such other lawful action as necessary to prevent or remedy any violation, including application for injunctive relief.

12.4.2 Any of the enforcement remedies and penalties, provided in this ordinance are available to be applied independently or in a sequence deemed necessary, shall be available to the City in response to violations of this ordinance. If the Person, property or facility has or is required to have a storm water discharge permit from the KDOW, the City may alert the appropriate State authorities of the violation.

#### **12.4.3 Notice of Violation (NOV)**

12.4.3.1 In instances when the City, based on observations or investigations, finds that any person owning or occupying a premise has violated or is violating this ordinance or order issued hereunder, the City will issue an NOV. This written Notice of Violation shall be hand

delivered, sent by first-class mail or delivered by registered or certified mail.

This NOV will contain:

- 12.4.3.1.1 Date and location of site observation(s) or investigation(s).
- 12.4.3.1.2 An itemized list of any deficiencies or failures.
- 12.4.3.1.3 A deadline in which the deficiencies are to be eliminated.

12.4.3.2 It will be the responsibility of the Permittee to determine what corrective actions are needed. If the deadline for eliminating the deficiencies can not be met, it is the responsibility of the Permittee to document that the deadline can not be met and request an extension to be evaluated by the City on a case by case basis.

#### 12.4.4 Permit Denial

At the discretion of the City Representative or designated agent, it may withhold or delay any permit application, inspection requests, appeals, or other plan approvals from person(s) that have unresolved enforcement matters.

#### 12.4.5 Stop Work Order

- 12.4.5.1 Persons receiving an NOV will be required to halt all construction activities.
- 12.4.5.2 No construction activities, other than those required to address deficiencies / violations, are allowed on a project site when a Stop Work Order has been issued.
- 12.4.5.3 The written Stop Work Order shall be sent by certified mail to the Permittee or may be hand delivered.
- 12.4.5.4 The written Stop Work Order shall specify deficiencies and violations that must be corrected prior to a City inspection for consideration of removing the Stop Work Order.
- 12.4.5.5 The Permittee shall notify the City in writing of the anticipated date for completion of the corrective action(s) and provide at least two (2) normal business days notice for the City to perform a compliance inspection.

#### 12.4.6 Permit Suspension or Revocation

- 12.4.6.1 In the event compliance cannot be achieved within the terms of a Notice of Violation and/or Stop Work Order, the City may proceed with permit suspension or revocation.
- 12.4.6.2 Land-disturbing activities are not allowed on a project site when a permit has been suspended or revoked other than those required to address deficiencies / violations.
- 12.4.6.3 The written Permit Suspension or Revocation shall be hand delivered

and/or sent by certified mail to the Permittee.

- 12.4.6.4 A Permit Suspension requires that the Permittee submit a revised portion of SWQMP as indicated by the City for review and acceptance by the City of the specific issue of contention. When a Permit Suspension is removed, the City shall provide written notice to the Permittee.
  - 12.4.6.5 When a Permit is revoked, the Permittee must reapply for a permit through the process of requesting a new Permit.
  - 12.4.6.6 A Permit Revocation requires that the Permittee resubmit a SWQMP for a full review and acceptance by the City Representative.
- 12.4.7 Compliance order – If a Person violates the provisions of this ordinance, the City or its designated representative, may give notice to the Owner or to any Person in responsible charge of the subject property ordering that unlawful conditions existing thereupon be abated within a schedule defined from the date of such notice.
- 12.4.7.1 The enforcement official shall have the authority to establish elements of a compliance SWQMP and require the owner implement such a plan as may be reasonably necessary to fulfill the purposes of this chapter. The enforcement official may establish the requirements of BMPs.
  - 12.4.7.2 The notice and order may be given, provided that if in the opinion of the City or its designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then the City or its designated representative shall, with or without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The City, as described further in this subsection, may recover the cost of such actions from the property owner.
- 12.4.8 Fines – A Person that has been found to have been in violation of any provision of this ordinance, may be assessed a civil penalty not to exceed the amount presented in this subsection.
- 12.4.8.1 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. The penalty shall be in addition to other enforcement actions of this section.
  - 12.4.8.2 The penalty shall be assessed for each day, beyond schedules applied in compliance orders or other schedules issued to the property owner or other Person responsible, for unauthorized activity defined in this section.
  - 12.4.8.3 The maximum fines will be determined by the type of offense. This indicates the maximum per day that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.

12.4.8.3.1 Development without or inconsistent with permit –  
To engage in any development, use, construction, remodeling or other activity of any nature in any way without all required permits or inconsistent with any approved plan, permit, certificate or other form of authorization granted for such activity.

Fines shall be a minimum of \$20 but not more than \$500 per offense. One offense is considered:

- One deficient rock check
- One deficient inlet protection
- One deficient outlet protection
- Silt fence deficiency per lot
- One deficient construction entrance
- Restoration deficiency per lot
- One deficient stock pile stabilization
- Etc.

12.4.8.3.2 Violation by act or omission – up to \$5,000  
To violate, by act or omission, any term, variance, modification, condition or qualification placed by the City 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.

12.4.8.3.3 Illicit Discharge – up to \$5,000  
Any Person who is found to have improperly disposed of any substance defined as an illicit discharge, not an allowable discharge or causes The City to be in noncompliance with any applicable environmental permit.

12.4.8.3.4 Household Products – up to \$500  
Any Person who is found to have improperly Disposed of any substance not included in Section 5.2 that was purchased over-the-counter for household use, in quantities considered normal for household purposes, which upon discharge to the MS4 or drainage network would have an adverse impact on water quality or cause the City to be in noncompliance with any applicable environmental permit.

12.4.8.4 In the event there are penalties assessed by the State against the City caused by a Person, said Person shall be assessed the equivalent amount of civil penalty. This shall include, but is not limited to, penalties for improper disposal or illegal dumping, or illicit connection into the MS4.

- 12.4.9 Administrative Fee – Any Person who undertakes any development activity requiring a storm water management plan hereunder without first submitting the plan for review and approval shall pay to the City, in addition to any permit or inspection fee, an administrative fee which reflects the actual cost of the corrective action.
- 12.4.10 Order to clean and abate/restore – Any violator may be required to clean and/or restore land to its condition prior to the violation.
- 12.4.11 Cost Recovery - If corrective action is not taken in the time specified the City may take the corrective action. The cost of the corrective action abatement and/or restoration shall be borne by the property owner. If the invoice is not paid within ninety (90) calendar days, the enforcement official shall have the authority to place a lien upon and against the property. Alternatively, if the invoice is not satisfied within ninety (90) calendar days, the enforcement official is authorized to take all legal measures available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property.
- 12.4.12 Injunctions and/or proceedings at law or in equity
- 12.4.12.1 Any violation of this ordinance 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.
- 12.4.12.2 The City shall pursue, through a court of component jurisdiction, any penalties that are not paid in full.
- 12.4.13 Civil Actions – In addition to any other remedies provided in this ordinance, any violation of this ordinance may be enforced by civil action brought by the City's attorney. Monies recovered under this subsection shall be paid to the City to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance and the storm water quality program. In any such action, the City may seek, as appropriate, any or all of the following remedies:
- 12.4.13.1 A temporary and/or permanent injunction;
- 12.4.13.2 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;
- 12.4.13.3 Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;
- 12.4.13.4 Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.
- 12.4.14 Emergency Orders and Abatements - The enforcement official may order the abatement of any discharge from any source to the storm water conveyance system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, or welfare of the environment

or a violation of a KPDES permit. In emergency situations where the property owner or other responsible party is unavailable and 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 of the environment or a violation of a KPDES permit, the City 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 shall be borne by the owner and shall be collectable in accordance with the provisions of this subsection.

- 12.4.15 Violations deemed a Public Nuisance - In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by State and local law.
- 12.4.16 Remedies Not Exclusive - The remedies listed in this ordinance are not exclusive of any remedies available under any applicable Federal, State or local law and the City may seek cumulative remedies.

## 12.5 Appeals

- 12.5.1 In order to have an appeal considered, the applicant shall submit a written request within 7 calendar days of the decision made by the City Representative to the City of Radcliff Chief Administrative Officer.
- 12.5.2 A hearing date shall be set within 30 calendar days from receipt of the appeal.
- 12.5.3 A written, final decision shall be rendered no more than five business days after the hearing in writing.

## **Section 13 - Compatibility and Severability**

Should any Article, Section, Subsection, Clause or Provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each Article, Section, Subsection, Clause and Provision being declared severable. The laws of the Commonwealth of Kentucky shall apply to this ordinance. If any provisions of this Ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

**Section 14 - Effective Date**

All Sections, with the exception of Section 10, of this Ordinance shall take effect upon passage.

Section 10 shall take effect January 1, 2011.

First Reading:

Second Reading:

Adopted this \_\_\_ day of \_\_\_\_\_ 2010

The result of the roll call vote is as follows:

YES

NO

ABSTAIN

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Honorable Sheila Enyart  
Mayor

ATTEST:

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Barbara Wilkins  
City Clerk