

CITY OF SHELBYVILLE
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SHELBYVILLE
FOR POST DEVELOPMENT
STORMWATER MANAGEMENT

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

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

WHEREAS, land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition; and

WHEREAS, land development projects and other land use conversions also contribute to increased non-point source pollution and degradation of receiving waters; and

WHEREAS, the impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters; and

WHEREAS, these adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural facilities as well as nonstructural measures, such as the conservation of open space and green space areas.

WHEREAS, therefore, the City of Shelbyville does enact this stormwater management ordinance to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. It has determined that it is in the public interest to regulate post development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and non-point source pollution associated with post-development stormwater runoff.

WHEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SHELBYVILLE, KENTUCKY:

SECTION 1. PURPOSE

To fully comply with federally mandated stormwater regulations, the City is required to address runoff from post construction areas. Post Construction stormwater management in areas undergoing new development or redevelopment is necessary because runoff from these areas has been shown to significantly affect receiving water bodies. Many studies indicate that prior planning and design for the minimization of pollutants in post construction stormwater discharges is the most cost effective approach to stormwater management.

SECTION 2. DEFINITIONS

The terms used in this ordinance are further defined in the City of Shelbyville Stormwater Best Management Practices Manual.

SECTION 3. LIMIT OF LIABILITY

- A) Nothing contained in this ordinance or the Shelbyville Best Management Practices (BMP) Manual is intended to be or shall be construed to create or form the basis for liability on the part of the City, its officers, employees, agents, or the utility, for any injury or damage resulting from flooding or flood related events due to improperly sized drainage facilities or surface and storm events which exceed design capacities.
- B) Floods from surface and storm water runoff may occasionally occur which exceed the capacity of surface and storm water drainage facilities constructed and maintained under this ordinance or Shelbyville's Best Management Practices Manual. The City's adoption of this ordinance does not imply that property responsible for the surface and storm water drainage shall always be free from surface and storm water flooding and riverine floods. Further, this ordinance does not claim to reduce the need or the necessity for any property owner/developer/applicant to obtain flood insurance.

SECTION 4. APPLICABILITY

The City of Shelbyville requires post construction stormwater BMPs on development and redevelopment construction projects that meet the criteria herein below and review and approval is required prior to commencement of construction where such construction is expected to disturb one acre or more or is a part of a larger common development. In addition, The City of Shelbyville requires post construction stormwater management BMPs for "hot spot" locations. "Hot spot" locations include the following:

- i) Automotive Fueling Facilities
- ii) Automotive Maintenance and Repair Facilities

- iii) Restaurants with grease collection and disposal
- iv) Other land uses as determined to have a high potential of pollutant discharge into the MS4 as determined by the City Engineer

SECTION 5. REVIEW AND ISSUANCE OF PERMIT

1. For projects requiring post construction BMPs, plans shall be submitted as part of the application process (e.g. building permit, detailed development plan or subdivision plan). Such plans shall conform to the design criteria set forth in the City of Shelbyville Stormwater Best Management Practice Manual. Based on the review of the permit application, the City of Shelbyville will:
 - i. Approve the permit application;
 - ii. Approve the permit application subject to such conditions as may be necessary to meet the requirements/intents of the objectives this ordinance/City of Shelbyville Stormwater Best Management Practices Manual and issue the permit subject to these conditions; or
 - iii. Deny the permit application, indicating the reason(s) and procedure for submitting a revised application and/or subdivision.
2. The City of Shelbyville reserves the right to inspect the site prior to any construction activity in furtherance of the review process.
3. The City of Shelbyville's approval of the permit is for general compliance with local requirements and the KYDOW general permit. The designer is ultimately responsible for the details of the design, with the property owner being responsible for implementation.

SECTION 6 - MAINTENANCE

As an additional requirement to obtain the permit provided for in Section 5 herein, the property owner shall enter into and Inspection and Maintenance Agreement, the terms of which shall be approved by the CITY.

The property owner shall be responsible for all maintenance and record keeping as detailed in the Maintenance Agreement set forth in the City of Shelbyville Stormwater Best Management Practices Manual.

SECTION 7 – RIGHT OF ENTRY

The City of Shelbyville and its agents shall have right of entry to inspect, observe, test or perform any related activity to the operation, maintenance and function of the stormwater infrastructure.

SECTION 8 – GENERAL REQUIREMENTS FOR POST CONSTRUCTION STORMWATER CONTROL.

Requirements for design, maintenance and a menu of BMPs are located in the Post Construction section of the City of Shelbyville Stormwater BMP Manual. The regulations set forth in the City of Shelbyville Stormwater BMP Manual shall be the standard for post construction compliance for the City of Shelbyville. The City of Shelbyville Stormwater BMP Manual is hereby adopted and incorporated by reference as if fully set forth herein. The City of Shelbyville Stormwater BMP Manual may be found and accessed at the City of Shelbyville, Kentucky website, www.shelbyvillekentucky.com.

SECTION 9. COMPATIBILITY WITH OTHER REGULATIONS

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provisions of law, except as otherwise specifically repealed herein. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.

SECTION 10. EMERGENCY CONDITIONS

Notwithstanding any other provisions of this ordinance, whenever it appears to the City that conditions covered by this Ordinance exists requiring immediate action to protect the public health, safety or public resources, the City is authorized to the extent permitted by law, to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating such emergency conditions. The utility may without prior notice order the immediate discontinuance of any activity leading to the emergency condition.

SECTION 11. ENFORCEMENT AND PENALTIES.

Failure to Maintain Practices

If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the City of Shelbyville, after reasonable notice, may correct a violation of the design standards or

maintenance needs by performing all necessary work to place the facility in proper working condition. The City will notify the party responsible for maintenance of the stormwater management facility in writing of any violation of design standard or maintenance needs detected by the CITY. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner. If the responsible person fails to effect maintenance or required repair, after proper notice, the City of Shelbyville may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the City.

In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Shelbyville shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the City shall be assessed against the owner/developer/applicant(s).

Violations

Any development activity that is commenced or is conducted contrary to this Ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

Notice of Violation.

When the City of Shelbyville determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- (1) the name and address of the owner or applicant;
- (2) the address when available or a description of the building, structure or land upon which the violation is occurring;
- (3) a statement specifying the nature of the violation;
- (4) a description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
- (5) a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) a statement that the determination of violation may be appealed to the CITY by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

Stop Work Orders

Persons receiving a notice of violation will be required to halt all construction activities. This “stop work order” will be in effect until the City of Shelbyville confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

Civil and Criminal Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Ordinance shall be punished by a fine of not less than ____ Dollars (\$xx) or by imprisonment for a period not to exceed ____ (xx) days, or both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Shelbyville may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

Holds on Occupation Permits

Certificate of Occupancy may not be issued until corrections to all of the stormwater management practices have been made and accepted by the City of Shelbyville.

SECTION 12. ADOPTION OF ORDINANCE

This ordinance shall become effective upon adoption.

If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this ordinance.

All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Introduced, seconded, and given first reading at a meeting of the City Council of the City of Shelbyville, Kentucky held on the ____ day of ____, 2009.

Given second reading and enacted at a duly convened meeting of the City Council of the City of Shelbyville, Kentucky, held on the ____ day of ____, 2009

Thomas L. Hardesty, Mayor

Attest:

Inez Harris

City Clerk/Treasurer

Approved by: _____ Date _____

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