

## CHAPTER 55: POST-CONSTRUCTION RUNOFF

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### § 55.01 AUTHORITY.

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

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

(C) The Approving Authority for this chapter is the City of Frankfort Public Works Department and its duly authorized designees who are responsible for implementing all the provisions within and referenced by this chapter.

(Ord. 9, 2005, passed 6-27-05; Am. Ord. 4, 2018, passed 2-26-18)

### § 55.02 PURPOSE AND SCOPE.

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

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(1) To protect and enhance the municipal separate storm sewer system MS4 community waters and waters of the Commonwealth;

(2) To maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding;

(3) To improve stormwater quality through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety; and

(4) To provide long-term responsibility for and maintenance of stormwater Best Management Practices (BMP).

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

(Ord. 9, 2005, passed 6-27-05; Am. Ord. 4, 2018, passed 2-26-18)

### § 55.03 DEFINITIONS.

For the purposes of this chapter the following terms, phrases, words, and their derivatives shall have the definitions stated below.

**APPROVING AGENCY.** The City of Frankfort Public Works Department and its duly authorized designees responsible for review and approval of stormwater management plans.

**BEST MANAGEMENT PRACTICES (BMP).** A technique or series of techniques, structural or nonstructural, which are proven to be effective in controlling runoff erosion sedimentation and mitigate flooding.

**DETENTION FACILITY.** A temporary or permanent natural or manmade structure that provides for the temporary storage of stormwater runoff which is designed so as not to create a permanent pool of water.

**DEVELOPER.** An person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof, engaged in the development or redevelopment of property.

**DRAINAGE AREA.** That area contributing runoff to a single point measured in a horizontal lane which is enclosed by a ridge line.

**EXTENDED DETENTION.** A stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events.

**FLOW ATTENUATION.** Prolonging the flow time of runoff to reduce the peak discharge.

**INFILTRATION.** The passage or movement of water into the soil surface.

**LAND DISTURBANCE ACTIVITY.** An land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the City of Frankfort including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land.

**PUBLIC WORKS DIRECTOR.** The Cit of Frankfort Public Works Department Director and City Engineer.

**REDEVELOPMENT.** Any construction, alteration, or improvement involving land disturbance performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential.

**RETENTION FACILITY.** A temporary or permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

**RETROFITTING.** The construction of a structural BMP in a previously developed area, the modification of an existing structural BMP or the implementation of a nonstructural practice to improve water quality over current conditions.

**RUNOFF.** Rainfall snowmelt or irrigation water flowing over the ground surface.

**SEDIMENT.** Soils or other surficial materials transported or deposited by the action of wind water ice, or gravity as a product of erosion.

**SITE PLAN.** A plan or set of plans showing the details of any land disturbance activity of a site including but not limited to the construction of structures, open and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, and landscaping.

**STORMWATER DESIGN STANDARDS.** The Cit of Frankfort's Stormwater Design Standards, latest version that serves as the official guide for stormwater design principle, methods and practices.

**STORMWATER MANAGEMENT.** For:

(1) Quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land, and

(2) Qualitative control, a system of vegetative structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

**WATERCOURSE.** An natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

**WATERSHED.** The total drainage area contributing runoff to a single point.

**WETLANDS.** A lowland area such as a marsh, that is saturated with moisture as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1987. (Ord. 9, 2005, passed 6-27-05; Am. Ord. 4, 2018, passed 2-26-18)

**§ 55.04 APPLICABILITY.**

(A) This chapter shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Frankfort under the specifications of the City of Frankfort Stormwater Procedures Manual, incorporated by reference in City Ordinance § 53.11. This chapter also applies, to land development activities that are smaller than one (1) acre if such activities are part of a larger common plan of development as established in KPDES permit number KYO200000.

(B) When a site development plan is submitted that qualifies as a redevelopment project as defined in the Stormwater Procedures Manual, decisions on permitting and on-site stormwater requirements shall be made after a review by the City of Frankfort. (Ord. 4, 2018, passed 2-26-18)

**§ 55.05 UTILIZATION OF BMP RESOURCES.**

The City of Frankfort may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements for this chapter in the form of approved Best Management Practices (BMP), which will be located in the City of Frankfort's Stormwater Procedures Manual. The Stormwater Procedures Manual will include specific design criteria and operation and maintenance requirements for stormwater BMPs. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards. Until the development of this resource, information

on stormwater BMPs is available at EPAs National Menu of Stormwater Best Management Practices (<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/>).  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.06 REQUIREMENTS FOR STORMWATER MANAGEMENT PLAN APPROVAL.**

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

(B) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater plan, measures for controlling existing stormwater runoff discharges from the site in accordance with the Stormwater Procedures Manual.

(C) The Stormwater Management Plan(s) must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Stormwater Procedures Manual or EPAs National Menu of Stormwater Best Management Practices, as applicable. By approving a plan under this chapter, the City of Frankfort does not accept responsibility for the design, installation, and operation and maintenance of stormwater BMPs.  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.07 MAINTENANCE AGREEMENTS.**

All commercial/multifamily stormwater treatment practices shall have an enforceable Operation and Maintenance Agreement to ensure the system functions as designed. This agreement will include any and all easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.08 ENFORCEMENT.**

The Approving Agency shall be responsible for the enforcement of this chapter and have the authority to issue notices of violation (NOVs), citations, and levy fines as described below.

(A) *Conditions Warranting Enforcement Procedures.* Enforcement procedures may be utilized if any of the following conditions exist:

- (1) Structural and/or non-structural BMPs are not being installed or maintained per manufacturer's specifications and/or Approving Agency;
- (2) Construction is not in compliance with the approved Stormwater Management Plan;
- (3) Maintenance of permanent stormwater BMPs is not sufficient after construction; or
- (4) Any of the conditions of this chapter are not being met.

(B) *Enforcement Procedures.*

(1) *Notice Procedures for NOV and Citation.* For the purposes of this chapter, an NOV and/or citation is issued by posting a copy of the NOV and/or citation on the construction site in reasonable proximity to a location where the violation is taking place. Additionally, a copy of the NOV and/or citation shall be mailed by first class mail, postage pre-paid, to the address listed by the responsible party on the Operation and Maintenance Agreement. In the case of work for which there is no Operation and Maintenance Agreement, a copy of the NOV and/or citation shall be mailed to the person listed as the landowner of the property.

(2) *Notice of Violation Procedures.* NOVs are the first level of enforcement and do not include a penalty, or fine. Only one NOV will be issued for an offense before citations are utilized. An offense of the same nature as a previous offense, even if previously corrected under a NOV, will constitute a second offense to be enforced through a citation. Offenses enforced through a NOV must be corrected within five (5) calendar days of the date of issuance or a citation will be issued.

(3) *Citation Procedures.* A citation shall be issued if an NOV is not corrected within (5) calendar days of the date of issuance of the NOV, or for an offense of the same nature as a previous offense, even if previously corrected under an NOV. Citations shall include a civil penalty, or fine, for each occurrence and shall be paid to the City of Frankfort prior to release. Fines shall be payable by check to the City of Frankfort.

(a) First Citation = \$1000.00 fine.

(b) Second Citation = \$2000.00 fine and Notice of Intent letter.

If the responsible party or landowner does not comply with the requirements of the citation and pay the accompanying fine within five (5) calendar days of the date of issuance of the citation, the penalty may be recovered by the city in a civil action in the nature of debt by filing a petition with the court of appropriate jurisdiction.

(4) *No Operation and Maintenance Agreement.* For violations where no Operation and Maintenance Agreement has been recorded, the Approving Authority will notify the property owner or Responsible Party and cooperate for resolution prior to enforcement. Should the Responsible Party not provide stormwater structure maintenance or demonstrate a history of non-compliance of the same nature, the Approving Authority may request the City Attorney to seek to obtain injunctive relief.

(5) *Notice of Intent.* Ten (10) calendar days after issuing the second citation, the Approving Authority may issue a Notice of Intent to the Responsible Party, landowner, or land user stating the City of Frankfort's intent to perform work necessary to comply with this chapter. The City of Frankfort may go on the land and commence work after fourteen (14) days from issuing the notice of intent. The costs incurred by the City of Frankfort to perform this work shall be paid by the property owner or Responsible Party. The cost, plus a reasonable administrative and attorneys fee shall be billed to the property owner. Failure to reimburse the City within thirty (30) days of billing will result in legal action to collect the amount due.

(6) *Immediate Abatement.* The Approving Authority is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately, the City of Frankfort is authorized to enter onto private or public property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of Frankfort shall be fully reimbursed by the property owner and/or responsible party. The cost, plus a reasonable administrative and attorneys fee shall be billed to the property owner. Failure to reimburse the City within thirty (30) days of billing will result in legal action to collect the amount due. For the purpose of this chapter, the ultimate party responsible for assuring compliance with the conditions set forth is tire property owner.

(7) *Legal Action and Injunctions.* Should the city take legal action to enforce the provisions of this chapter, the City of Frankfort shall be entitled to collect any and all costs in instituting and talcing such legal action, including but not limited to its court costs and attorney's fees. Compliance with the provisions of this chapter may also be enforced by injunction.  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.09 COMPATIBILITY WITH OTHER PERMITS AND ORDINANCE REQUIREMENTS.**

The requirements of this chapter should be considered minimum requirements, and where any provisions of this chapter impose restrictions different from those imposed by any other applicable ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.10 SEVERABILITY.**

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

(Ord. 4, 2018, passed 2-26-18)