

EMERGENCY ORDINANCE 07 - 2012

AN ORDINANCE OF THE CITY OF ELIZABETHTOWN, KENTUCKY PROVIDING REGULATIONS AND MEASURES THAT WILL ADDRESS STORMWATER QUALITY AND ESTABLISHING PROCEDURES BY WHICH THESE REQUIREMENTS ARE TO BE ADMINISTERED AND ENFORCED

WHEREAS, the City wishes to adopt an ordinance regarding stormwater quality management for the purpose of complying with the KPDES Phase 2 requirements:

NOW THEREFORE, Be it ordained by the City Council of the City of Elizabethtown, Kentucky that from and after the passage, approval and publication of this ordinance that a new ordinance is created as follows:

Section I - Title, Purpose, and General Provisions

- A. This Ordinance shall be known as the “Stormwater Quality Management Ordinance” for the City of Elizabethtown (“the City”), Kentucky, and may be so cited.
- B. The purpose of this Ordinance is to provide regulations and measures that will address stormwater quality in the City and to establish procedures by which these requirements are to be administered and enforced.
- C. Jurisdiction
 - 1. The laws of the Commonwealth of Kentucky shall apply to this ordinance.
 - 2. The Stormwater Quality Management Ordinance shall govern all properties within the jurisdictional boundaries of the City.
 - 3. This Ordinance is applicable to all new development and redevelopment activities that result in the disturbance of one (1) acre or more of land including disturbance of less than that if part of a larger common plan.
- D. Agricultural activities are exempt from the provisions of this Ordinance.

Section II - Definitions and Acronyms

- A. **Builder** shall mean a person, partnership, contractor, or corporation constructing one or more buildings for occupancy or any other use.
- B. **City** shall be the City of Elizabethtown, Kentucky.
- C. **City Representative** shall mean the Director of Stormwater Management or person or persons currently designated by the Mayor to administer the Stormwater Program and any related permit activities.
- D. **Clean Water Act** means the Federal Water Pollution Control Act (33 U.S.C § 1251 et seq.)
- E. **Detention Basin** shall mean a drainage facility constructed to restrict the runoff of stormwater to a prescribed maximum rate and to detain for a specified period of time the excess waters that accumulate upstream from the outlet structure.
- F. **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.
- G. **Drainage Area** shall mean the surface area from which water drains to a point of consideration.
- H. **Engineer** shall mean a person licensed as a Professional Engineer in the Commonwealth of Kentucky in accordance with KRS 322.
- I. **FEMA** shall be used to refer to the Federal Emergency Management Agency.

- J. **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.
- K. **Industrial Activity** means activities subject to KPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- L. **KDOW** shall be used to refer to the Kentucky Division of Water.
- M. **Kentucky Pollutant Discharge Elimination System (KPDES) Stormwater 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.
- N. **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 stormwater; not privately owned; not a combined sewer; and not part of a publicly owned treatment works (POTW).
- O. **Outfall** shall mean the point or location where stormwater runoff discharges from a BMP, conduit, stream or drain, storm sewer, channel, or detention/retention facility.
- P. **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.
- Q. **Pollutant** means anything of a chemical component or nature which causes or contributes to pollution.
- R. **Pollution** means the contamination or other alteration of any water's physical, chemical, or biological properties by the addition of a constituent.
- S. **Post-Construction Stormwater Pollution Prevention Plan (P-SWPPP)** is a plan that illustrates how the pollutants or pollution will be prevented, treated and otherwise managed in the long-term, beyond that of construction phases.
- T. **Premises** mean any building, lot, parcel of land, or portion of land whether improved or unimproved.
- U. **Qualified Professional** shall mean an individual who is trained and experienced in stormwater treatment techniques and related fields as may be demonstrated by state licensure, professional certification, experience, or completion of coursework, as accepted according to this Ordinance, that enable the individual to make sound, professional judgments regarding stormwater control or treatment and monitoring, pollutant fate and transport, and drainage planning.
- V. **Redevelopment Projects** are classified as any activity at a current site that requires the submittal of a development plan. Existing single family structures are exempt from redevelopment requirements.
- W. **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.
- X. **Storm Sewer** shall mean channel, ditch, catch basin, inlet pipe, culvert, conduit or other conveyance used for the purposes of collecting and conveying stormwater.
- Y. **Water Quality Retention Basin** shall mean a drainage facility constructed to contain the runoff of stormwater 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.

Section III - Program Objectives and General Approach

- A. Program Objectives
 - 1. Protection of the short-term and long-term public health, safety, and general welfare. This objective will be achieved by the following:
 - a. Providing for regulation and management of the City's stormwater system, including public and private facilities in the City's service area.
 - b. Protecting, and preserving stormwater quality and thereby fish and wildlife habitat within the City and in downstream receiving waters.
 - c. Protecting those downstream and adjacent properties from stormwater quality impairment.
 - 2. Compliance with state and federal stormwater regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments. This objective will be achieved by the following:
 - a. Benefiting stormwater 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.
 - b. Managing the quality of stormwater discharged to the MS4 by controlling the contribution of pollutants associated with new development and redevelopment.
 - c. Minimizing damage to public facilities and utilities.
 - d. Managing the use of the public and private stormwater / drainage system that will not result in excessive maintenance costs.
 - e. Encouraging the use of natural and aesthetically-pleasing designs that maximize the preservation of natural areas.
 - f. Guiding the construction of stormwater management facilities by developing comprehensive master plans that address stormwater quantity, quality, design, operation, and maintenance.
 - g. Encouraging the preservation of floodplains, floodways and open spaces to protect and benefit the community's quality of life and natural resources.
 - f. Encourage the planning for and use of regional BMPs.
- B. General Approach for Development
 - 1. To most effectively achieve the program objectives, the City promotes an approach that encourages the consideration and use of:
 - a. Regional BMPs.
 - b. Lo-impact development design principles, where consistent with good civil engineering design.
 - c. Waterway buffers.
 - d. Low maintenance on-site BMPs.
 - e. A series of Multiple BMP treatment systems.
 - 2. The City will encourage a primary preference for regional BMPs through:
 - a. Enabling and facilitating private partnerships where on-site stormwater quantity and/or quality requirements may be achieved or offset by watershed-based solutions.
 - b. Enabling and supporting private/public partnerships, regional basin approaches, and in-lieu fee funds.
 - 3. In support of this approach, the City integrates into the planning and construction plan review processes, when and where available, the use of:
 - a. Adopted watershed studies.
 - b. Adopted master plans.
 - c. City of Elizabethtown Stormwater Design and Water Quality Manual

- d. FEMA floodplain delineations.

Section IV - Authority and Right of Entry

- A. Upon request to the Person, the City shall have safe and easy access to the areas to be inspected and/or monitored.
 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.
 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.
 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 stormwater operations or discharges.
 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.
 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.
 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:
 - a. An inspection to determine the effectiveness or operational viability of a permanent or long-term stormwater quality management practice(s).

Section V - Post-Construction Stormwater Management

- A. Stormwater Quality Management
 1. The Permittee shall complete a Permit application that includes a Post-Construction Stormwater Pollution Prevention Plan (P-SWPPP) to be completed, sealed and signed by a Licensed Professional Engineer and submitted to the City Representative.
- B. Post-Construction Stormwater Pollution Prevention Plan
The P-SWPPP shall include the following information:
 1. A description of the proposed land use including amount of impervious area, directly connected impervious area, and nature of the development.
 2. Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality Best Management Practices (BMPs), as defined in the City guidance documents.
 3. A sequence describing when each post-construction stormwater quality BMP will be installed.
 4. A *Long-Term Operation and Maintenance Agreement* containing maintenance guidelines for all post-construction stormwater 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 stormwater quality measures.

5. The P-SWPPP shall include provisions for waterway buffers.
 - a. 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.
 - b. A waterway buffer shall be applied to all waterways serving more than 25 acres of tributary area or presented on a United States Geological Survey map as a blue line stream.
 - c. The waterway buffer shall be defined as the greater of:
 - Area contained within a boundary established by the floodplain boundary as defined by FEMA or City master planning: or
 - 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).
 - d. The waterway buffer and floodplain may be used for application of stormwater quality devices. This may only be permitted if erosion prevention and sediment control, water quality, and floodplain cut fill policies are adequately addressed as determined by the City.
 - e. Exemptions may be granted at the discretion of the City for:
 - Roads and utilities crossing waterways.
 - Pedestrian trails and walkways proximate to waterways.
 - Other exemptions.
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.
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.

C. BMP Design Requirements and Criteria

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.
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.

- a. 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, stormwater management manuals, in lieu fee schedule, and operation and maintenance manuals.
 - b. Materials may include information deemed appropriate by the City including and specifications for the preparation of grading plans, guidance selecting environmentally sound practices for managing stormwater, minimum specifications and requirements, more complete definitions and performance standards.
 - c. 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.
 - d. 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.
3. The P-SWPPP shall include provisions for stormwater quality BMPs functioning independently or in combination. Acceptable stormwater quality BMPs shall be defined by policy and guidance documents as approved by the City.
 4. The P-SWPPP shall include provisions for stormwater quality BMPs that are designed to achieve the following design / performance objectives:
 - a. 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 80th percentile precipitation event (0.75" rainfall). At least 80% of the average annual post-construction total suspended solids (TSS) load shall be removed.
 - b. Reduce or buffer increases in stormwater runoff temperature caused by contact with impervious surfaces.
 - c. Reduce or buffer increases in stormwater runoff volume and flow rate caused by increases in impervious area.
 - d. Stormwater 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 as defined by City stormwater 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 2, 10, 25, and 100 year, 24 hour, SCS Type II distribution, design storm events to pre-developed levels for all new developments. The approved P-SWPPP may require the first flush (0.75 inch rainfall) to be retained in the basin without discharge. Redevelopment shall reduce the discharge from their site to meet this same standard. This may require the redesign and reconstruction of existing basins at the site to meet the current standard.
 - e. Culvert and storm sewer improvements shall be designed to minimize scour. The FHWA HDS No. 5 design methodology (latest edition) considering inlet and outlet control shall be used. For major culverts and storm sewers, as

designated by the City, a 100 year, SCS Type II 24 hour design flow shall be used with a HW/d less than or equal to 1.0. For minor, subdivision level culverts and storm sewers, a 25 year SCS Type II 24 hour storm and a HW/d less than or equal to 1.0 shall be used. In this instance, a check of the 100 year SCS Type II 24 hour flow with a HW/d less than or equal to 1.2 shall also be performed. Pipe outlets shall be protected with channel lining or permanent turf reinforcement mat, as supported by sound civil engineering design.

- f. Stormwater hotspots are areas that often produce higher concentration of certain pollutants, such as hydrocarbons or heavy metals, than are normally found in urban runoff. These sites shall be required to provide effective removal of the particular pollutant(s) 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 stormwater hotspots include:

- Gas/fueling stations
- Restaurants
- Vehicle repair facilities
- Vehicle washing / steam cleaning facilities (including mobile operations)
- Auto and metal recycling facilities
- Outdoor material storage areas
- Loading and transfer areas
- Landfills
- Industrial sites
- Industrial rooftops

Stormwater hotspots shall have treatment on site and cannot rely on regional solutions offered by the City or the larger development to meet their individual treatment requirement.

- g. Soil bioengineering, "green" and other "soft" slope and stream bank stabilization methods shall receive preference over rip rap, concrete and other hard armoring techniques except where necessitated by sound civil engineering design.
- h. 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 karst topography if found through inspection or 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 100-year storm event. Injection wells shall not generally be permitted due to the relationship between subterranean and surface flows.
- i. Each P-SWPPP shall be evaluated for consistency with the stormwater 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 stormwater 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 stormwater quantity and/or quality controls will be necessary.

- j. The City reserves the right to require superseding or additional treatment criteria or objectives for specific pollutant(s) as necessary to meet overall stormwater 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.
- k. On-site BMP Coordination with Regional BMPs
 - All properties are expected to implement on-site stormwater quality control measures, but the extent of application may be reduced given the availability, proximity, and nature of regional stormwater quality BMPs.
 - The extent and type of on-site stormwater quality management practices implemented shall be proportionate to the land use, and proximity to regional stormwater quality management practices.

D. BMP Ownership and Easement

1. Any stormwater management facility or BMP which services individual property owners shall be privately owned. General routine maintenance (controlling vegetative growth, seeding, regrading, and removing debris) shall be provided by the owner(s). The owner shall establish a public utilities and drainage easement over the locality for access for inspection and emergency maintenance by the City. The City, or its designee, has the right, but not the duty, to enter premises for emergency repairs.
2. Any stormwater 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 public utilities and drainage easement which allows access for inspection and emergency maintenance by the City. The City, or its designee, has the right, but not the duty, to enter premises for emergency repairs.
3. Any stormwater management facility or BMP which services commercial and industrial development shall be privately owned and maintained. The owner shall maintain a public utilities and drainage easement which allows access for inspection and emergency maintenance by the City. The City, or its designee, has the right, but not the duty, to enter premises for emergency repairs.
4. All regional stormwater 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 stormwater management control facilities and BMPs shall be privately owned and/or maintained unless accepted for maintenance by the City.
5. The City may require dedication of privately owned stormwater facilities, which discharge to the City stormwater system. This shall be at the approval of the City Council.

E. Regional Facilities Management

1. The objective of a regional stormwater management facility, pond, lake, or other device, is to address the stormwater management concerns in a given

watershed with greater economy and efficiency than possible through individual facilities. The intended result is fewer stormwater management facilities to maintain in the affected watershed while sustaining efficiency.

2. The City encourages regional stormwater 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 stormwater quantity and/or quality management practices, as determined to be appropriate by the City.
 3. Where a regional stormwater 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, unless excepted, may participate in said program in lieu of runoff control required by this Ordinance. This may be permitted provided that:
 - a. Runoff from the development is benefited by to an approved existing or proposed public regional stormwater management facility that is currently operational or will be operational within one (1) year.
 - b. Participation in the form of contribution of funds, contribution of land, contribution of stormwater 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.
 - c. The City finds that the stormwater quality management plans are in compliance with all other applicable requirements and Ordinances.
 - d. Each fiscal or in-kind contribution from a development owner participating in a regional stormwater quality management facility shall be used for acquisition, design, construction or maintenance of one (1) or more such facilities in the Valley Creek watershed.
 - e. 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 stormwater management system may be required. Where the retention/detention facility is planned to be used as a lake, pond or stormwater quality management practice with a permanent pool, calculations shall be performed and submitted to demonstrate that an adequate permanent pool depth is expected during dry summer months without vegetation growth issues.
- F. Long-Term Operation and Maintenance Agreements
1. *Long-Term Operation and Maintenance Agreements* shall include a maintenance plan for all stormwater quality BMPs in new development or redevelopment that require more than general maintenance (e.g. periodic mowing).
 - a. The plan will be developed to ensure that the stormwater 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.
 - b. 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.

- c. The Agreement shall be noted on the final plat with the appropriate notation on the particular lot(s).
 - d. 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.
 - e. The format for the *Long-Term Operational and Maintenance Agreement* shall be provided through example by the City, or through guidance documents.
 - f. Stormwater 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*.
 - g. When a stormwater 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.
2. Single entity ownership – Where the permanent storm runoff control facilities are designed to manage runoff from property in a single entity ownership, the maintenance responsibility for the stormwater control facilities shall be with the single entity owner.
- a. 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.
 - b. 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.
 - c. Upon approval of the stormwater 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.
 - d. 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.
 - e. Unless made specifically clear in the preliminary stages of the site design and construction plan review procedure, it will be assumed that all stormwater detention, retention, treatment or storage facilities and/or devices shall be owned, operated and maintained by a single entity as defined above.

3. City ownership – Where the City has accepted an offer of dedication of the permanent stormwater quality BMPs, the City shall be responsible for operation and maintenance.

G. Special Watersheds

1. Special watersheds may be designated by the City with unique goals and requirements. The minimum measures outlined in this ordinance shall be met at all times. Additional requirements, unique to the specific watershed, shall be required to meet the specific needs of the watershed.
2. Special Watersheds designated:
 - a. Hawkins Drive – Flow Quantity Limitation. The post-developed flow rate and quantity from the development cannot exceed the pre-developed flow rate and quantity in this unique watershed. The karst feature that receives the flow from this watershed has no predictable capacity. Therefore site storage, reuse, and other innovative methods to abate both rate and volume increases due to development shall be required,
 - b. Current and future listings by KDOW

Section VI – Stormwater Quality Management Plan Permit Inspections

A. Permittee Performed Inspections

1. Permittee performed inspections (self inspections) shall be performed by a Qualified Professional.
2. Documentation of owner performed inspections and inspection findings shall be kept on site, if appropriate facilities are available.
3. 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.
4. Post-Construction Inspections
Inspection and maintenance shall be performed at stormwater quality BMPs on at least an annual basis and as otherwise determined in the *Long-Term Operation and Maintenance Agreement*.

B. Oversight Inspections

1. The City, or the City's designated representative, has the authority to randomly and periodically inspect the stormwater 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.
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.
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 VII - Post-Construction Qualified Professional

- A. Possess a license as a Professional Engineer in good standing in the Commonwealth of Kentucky with demonstrated knowledge and experience in:
 - 1. Stormwater quality treatment practices and BMPs;
 - 2. Operational standards;
 - 3. Cause and failure indicators; and
 - 4. Maintenance measures used to prevent and correct failures.

Section VIII - As-built Requirements

- A. 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 stormwater features must be identified, approved, and provided in an electronic form to the City Representative.
 - 1. The volume, slopes, configuration, condition and topographic information of all detention, retention and water quality practices shall be certified by a Professional Engineer 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 goals of the stormwater plan.
 - 2. 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

Section IX – Enforcement

A) Stop-Work Order; Revocation of Permit

In the event that any person holding a permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of the public near the development site or vicinity so as to be materially detrimental to the public welfare or injurious to property or improvements in the vicinity, the City may suspend or revoke the site development permit.

B) Violation and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Each day of violation of this ordinance may be considered a separate occurrence. Any person, partnership or corporation violating this ordinance may be cited for a civil offense pursuant to the Code Enforcement Board Ordinance and Fine Schedule. The civil fine shall be paid directly to the City of Elizabethtown. If the fine is not paid within thirty (30) days from the date of notification, then the City may recover said fine in a civil action in a court of proper jurisdiction. The citing officer may at his or her discretion cite the offender to appear before the Code Enforcement Board. The City may also obtain injunctions or abatement orders to insure compliance with this ordinance. Nothing in this section shall negate the ability of the City to pursue applicable civil or criminal penalties as prescribed by law. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

Section X – Severability

If any provision, clause, sentence, or paragraph of this Ordinance or its application to any person or factual context shall be held invalid, that invalidity shall not affect the remaining provisions of this Ordinance, which may be given effect independent of the provision or application declared invalid.

Section XI - Effective Date

This Ordinance shall be effective the 15th day of April, 2012.

IT IS FURTHER DECLARED that passage of this ordinance and the finalization of the same is an emergency because time is of the essence. Therefore, it is found that an emergency does exist and the requirements of a second reading be suspended.

BE IT FURTHER ORDAINED that the Mayor of the City of Elizabethtown and/or his designate be and he is hereby authorized and directed to take all steps necessary to perfect this Ordinance.

READ, ADOPTED AND APPROVED this ____ day of April, 2012.

TIM C. WALKER., MAYOR

ATTESTED TO:

MARY CHAUDOIN, CITY CLERK