

Streets and Sidewalks

21-2

21-2 STORM WATER.

21-2.01 Definitions as used in this Subchapter:

The terms as used in this Subchapter are further defined in the City of Bowling Green Stormwater Best Management Practices Manual.
(Ord. BG2007-36, 8/21/2007)

21-2.02 Impacts to Drainage System.

a. The filling, plugging, clogging or in any way interfering with the natural drainage capability of a crevice, sinkhole, ditch, known subterranean water channel, closed systems, catch basins, dry wells or any other drainage facilities whether natural or constructed is prohibited. Any violation is subject to penalties as set out hereinbelow.

b. Any person proposing alterations, improvements or other disturbance which would change the flow characteristics of storm water to any natural drainage crevice, sinkhole, ditch, known subterranean water channel, closed systems, catch basins, dry wells, any other drainage facilities whether natural or constructed, or adjoining property or right-of-way must submit plans to be approved by the City Engineer or Planning Commission's Engineer prior to the commencement of any alterations, improvements or other disturbance. Any construction prior to final approval shall be subject to penalties as set out hereinbelow.

c. Any person proposing any construction or other activity which would change the contour of the land, remove any trees, remove any shrubs or remove any vegetation which would affect the erosion or sedimentation of drainage ditches, crevices, sinkholes, closed systems, catch basins, dry wells or any other drainage facilities, whether natural or constructed, must submit plans showing proposed temporary and permanent erosion prevention and sedimentation control methods to be used. Plans must be approved by the Planning Commission Engineer and the City Engineer prior to the commencement of any construction or other activity. In addition, plans must state whether intention to dispose of said vegetation by burning is proposed. Such request to burn will be considered and permission or denial specifically stated along with authorization to clear construction site. No burning shall be permitted without or prior to receipt of plan approval. Any construction prior to these approvals shall be subject to penalties as set out hereinbelow.

(Ord. BG80-63, S25-15, 7/15/80; Ord. BG84-17, 5/1/85; Ord. BG88-64, 12/20/88; Ord. BG91-59, 11/19/91; Ord. BG2001-52, 11/20/2001; Ord. BG2002-41, 8/20/2002; Ord. BG2004-63, 12/21/2004)

21-2.03 Construction Site Stormwater Run-Off Control Management.

a. Purpose. The Clean Water Act, EPA and KYDOW established Phase II regulations and mandated Erosion Protection and Sediment Control (EPSC) procedures for construction in the Commonwealth of Kentucky. During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers, ditches, sinkholes and drywells. Streets and roads with sediment deposits are slick and hazardous to the public. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat. The purpose of the following regulations is to safeguard persons, protect property and prevent damage to the environment. These regulations also promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth or land in the City. Any construction that involves the movement or excavation of soil shall be conducted in a manner as to prevent erosion off-site or into drainage structures. If deemed necessary by the City Engineer or Planning Commission's Engineer, an Erosion Prevention and Sediment Control Plan (EPSC) may be required.

b. Permits Required, Exceptions, Requirements and Fees. Permits are required to be obtained from the City of Bowling Green for all site construction projects and/or land disturbances as set out in the City of Bowling Green Stormwater Best Management Practices (BMP) Manual. The developer shall also coordinate with the KYDOW and the U.S. Army Corps of Engineers to determine whether permits are required from those agencies before construction begins. Each developer shall submit an application to the City on a form provided by the City. Each permit application shall include a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the EPSC Plan and that a certified contractor shall be responsible for implementing and maintaining all aspects of the plan. No permit shall be required from the City for emergency activity that is immediately necessary for the protection of life, property or natural resources or for existing nursery and agricultural operations conducted as a permitted main or accessory use. All permit applications shall include the appropriate erosion review and inspection permit fee of \$35.00 which is in addition to the fees required for all activities requiring a land excavation, grading, paving, swimming pool, building and all other types of construction permits required from the City and an erosion review and inspection permit fee of \$75.00 which is in addition to the fees required for all activities requiring a land excavation, grading, paving, swimming pool, building and all other types of related permits required from the City for construction permits requiring a NOI. The permits required to be obtained from the City and the items required for each permit type are contained in the City of Bowling Green Stormwater BMP Manual.

c. Review and Issuance of Permit.

1. The City of Bowling Green will review each permit application to determine its conformance with the provisions of this Section. Approval indicates that

minimum requirements or intent are met and does not imply a guarantee of performance. Based on the review of the permit application, the City of Bowling Green will:

- a) Approve the permit application;
- b) Approve the permit application subject to such conditions as may be necessary to meet the requirements/intent of the objectives of this Section, and issue the permit subject to these conditions; or,
- c) Deny the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

2. The City of Bowling Green reserves the right to inspect the site prior to any construction activity in furtherance of the review process.

3. The City of Bowling Green'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 design of the EPSC plan, with the property owner being responsible for implementation.

d. Right of Entry. The City of Bowling Green or its designated agent may enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports required by this Subchapter.

e. General Requirements for Construction Site Stormwater Run-Off Control Management. Requirements for the design, maintenance and a menu of Best Management Practices (BMPs) are located in the Construction Site Stormwater Run-Off Control section of the City of Bowling Green Stormwater BMP Manual. The regulations set forth in the City of Bowling Green Stormwater BMP Manual shall be the standard of practice for site construction within the City of Bowling Green.
(Ord. BG2007-36, 8/21/2007)

21-2.04 Illicit Discharge.

a. Purpose. The purpose of this Section is to provide for the health, safety and general welfare of the citizens of Bowling Green, Kentucky, through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by state and federal law. This Section establishes methods for controlling the introduction of pollutants or hazardous materials into the municipal separate storm sewer system (MS4) or any conveyance in order to comply with requirements of the City of Bowling Green's National Pollutant Discharge Elimination System (NPDES) Phase II permit. The objectives of this Section are:

1. To prohibit the introduction of any foreign matter, whether liquid or solid, other than normal surface or naturally occurring storm water into the MS4 or any conveyance.

2. To prohibit illicit connections and discharges to the MS4 or any conveyance.

3. To establish legal authority to carry out all inspections, surveillance and monitoring procedures necessary to ensure compliance with this Section.

b. Applicability. This Section shall apply to all discharges entering the MS4 or any conveyance generated on any developed and undeveloped lands unless explicitly exempted by the authorized enforcement agency.

c. Responsibility for administration. The City of Bowling Green shall administer, implement and enforce the provisions of this Section. Any powers granted or duties imposed upon the City of Bowling Green may be delegated in writing by the City Engineer to persons or entities acting in the beneficial interest of or in the employ of the City of Bowling Green.

d. Ultimate responsibility. The standards set forth herein and promulgated pursuant to this Section are minimum standards; therefore, this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution or unauthorized discharge of pollutants or hazardous materials.

e. Discharge prohibitions/exceptions. Other than naturally-occurring storm water, no person shall discharge or cause to be discharged into the MS4 or any conveyance any materials, including but not limited to, pollutants or hazardous materials or waters containing any pollutants or hazardous materials that cause or contribute to a violation of applicable water quality standards. Allowable discharges that create or have the potential to create unsafe conditions on City streets or other public rights-of-way are prohibited. The commencement, conduct or continuance of any illegal discharge to the MS4 or any conveyance is prohibited except that the following discharges are exempt from discharge prohibitions established by this Section, if such discharges do not violate applicable water quality standards:

1. Water line flushing or water from other potable sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, uncontaminated ground water infiltration, foundation or footing drains, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or natural wetland flows, swimming pools (if discharged to the ground, not to a City street or directly to any part of the MS4 or any conveyance), fire fighting activities, street wash water and any activity related to normal performance of municipal operations such as street sweeping. Dewatering of existing ponds requires a permit from the Kentucky Division of Water.

2. Discharges specified in writing by the City of Bowling Green as being necessary to protect public health and safety.

3. Scientific research and sewer infrastructure use of fluorescent dye is an allowable discharge.

4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the USEPA or the KDOW, provided that the permit holder is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4 or any conveyance.

f. Prohibition of Illicit Connections. The construction, use, maintenance or continued existence of illicit connections to the MS4 or any conveyance is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Section if the person connects a line conveying sewage or any other pollutant or hazardous materials to the MS4 or any conveyance or allows such a connection to continue.

g. Suspension of MS4 access due to illicit discharges in emergency situations. The City of Bowling Green may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, to the MS4, or to waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of Bowling Green may take such steps as deemed necessary to prevent or minimize damage to the MS4, or waters of the United States, or to minimize danger to persons.

h. Suspension of MS4 access due to the detection of illicit discharge. Any person discharging to the MS4 or any conveyance in violation of this Section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Bowling Green shall require the violator to disconnect access to the MS4 at their cost or take corrective action to eliminate the source of the illicit discharge. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section without the prior approval of the City of Bowling Green.

i. Industrial or construction activity discharges. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the City of Bowling Green prior to the allowing of discharges to the MS4 or any conveyance. However, should an illicit discharge be detected from such activities, the City of Bowling Green shall have the authority to regulate the site per the provisions of this Section.

j. Monitoring of discharges. This section applies to all facilities that have

storm water discharges associated with industrial activity, including construction activity.

1. The City of Bowling Green shall be permitted to enter and inspect facilities subject to regulation under this Section as often as may be necessary to determine compliance with this Section. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of Bowling Green.

2. Facility operators shall allow the City of Bowling Green ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

3. The City of Bowling Green shall have the right to install on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's discharge.

4. The City of Bowling Green shall have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of City of Bowling Green and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Any interference with allowing the City of Bowling Green access to a permitted facility is a violation of a storm water discharge permit and of this Section. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City of Bowling Green reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Section.

7. If the City of Bowling Green has been refused access to any part of the premises from which storm water is discharged and is able to demonstrate probable cause to believe that there may be a violation of this Section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Section, or any order issued hereunder to protect the overall public health, safety and welfare of the community, the City of Bowling Green may seek all appropriate remedies from any court of competent jurisdiction, including the issuance of a search warrant.

k. Requirement to prevent, control and reduce storm water pollutants by the use of BMPs. The City of Bowling Green shall review and approve BMPs for any activity, operation or facility that may cause or contribute to pollution, discharge of hazardous materials or has the potential to contaminate naturally occurring storm water or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or any conveyance through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise which is, or may be, the source of an illicit discharge may be required to implement, at such person's expense, additional structural and

nonstructural BMPs to prevent the further discharge of pollutants or hazardous materials to the MS4 or any conveyance. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Watercourse protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

m. Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants or hazardous materials discharging into naturally occurring storm water, the MS4 or any conveyance, such person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, such person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, such person shall notify the authorized enforcement agency in person or by phone, facsimile or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Bowling Green within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

n. Cost of abatement of a violation. Any person causing a violation of this Section which requires the City to expend public funds for the response to the violation, its abatement or the cleanup or removal of any prohibited discharges, pollutants or hazardous materials shall be liable to the City for all recoverable costs incurred by the

City for such response, cleanup and removal, including but not limited to, personnel costs of the Police Department, Fire Department, Public Works Department and other responding City departments, replacement costs of supplies and equipment contaminated as a result of the discharge, proper disposal of contaminated materials, cleanup, evacuation and administrative and other expenses, including legal expenses, incurred in recovering such costs. Any such illegal discharges shall be considered a public health hazard and the City shall have a lien against the property for its recoverable costs. (Ord. BG2002-41, 8/20/2002; Ord. BG2004-63, 12/21/2004; Ord. BG2005-51, 12/19/2005)

21-2.05 Post Construction Water Quality.

a. 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 quality management.

b. Applicability. For construction meeting the criteria herein below, review and approval is required prior to commencement of construction:

1. Disturb more than one (1) acre.
2. Hotspot land uses as defined below:
 - a) Automotive fueling facilities;
 - b) Automotive maintenance and repair facilities;
 - c) Restaurants with grease collection and disposal; and,
 - d) Other land uses as determined to have a high potential of pollutant discharge into the MS4 as determined by the City Engineer.

c. Review and Issuance of Permit.

1. For projects requiring post construction, plans shall be submitted as part of the application process (e.g. building permit, detailed development plan or subdivision). The plans shall conform to the design criteria set forth in the City of Bowling Green Stormwater BMP Manual. Based on the review of the permit application, the City of Bowling Green will:

- a) Approve the permit application;

b) Approve the permit application subject to such conditions as may be necessary to meet the requirements/intents of the objectives of the Subchapter, and issue the permit subject to these conditions; or,

c) Deny the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

2. The City of Bowling Green reserves the right to inspect the site prior to any construction activity in furtherance of the review process.

3. The City of Bowling Green'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 design, with the property owner being responsible for implementation.

d. Maintenance. The property owner shall be responsible for all maintenance and record keeping as detailed in the Maintenance Agreement set forth in the City of Bowling Green Stormwater BMP Manual.

e. Right of Entry. The City of Bowling Green 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.

f. 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 Bowling Green Stormwater BMP Manual. The regulations set forth in the City of Bowling Green Stormwater BMP Manual shall be the standard practice for post construction compliance in the City of Bowling Green.

(Ord. BG2002-41, 8/20/2008; Ord. BG2004-63, 12/21/2004; Ord. BG2007-36, 8/21/2007)

21-2.06 Penalties; Stop Work Orders; Abatement.

Enforcement proceedings for this subchapter shall be initiated by the issuance of a notice of violation or a citation by a code official as set out in the procedures in Subchapter 27-7 of this Code. In addition to all procedures as set out in Subchapter 27-7, the City of Bowling Green may also take immediate action to remedy a violation of this Subchapter, including the issuance of a Stop Work Order, for construction under an active building permit, grading permit, detailed development plan or subdivision if work is not in compliance with the requirements of this Subchapter. Any person violating any portion of this Subchapter shall be subject to civil penalties as set out in Subchapter 27-8 of this Code.

(Ord. BG2002-41, 8/20/2002; Ord. BG2004-63, 12/21/2004)