

**COMMONWEALTH OF KENTUCKY**  
**OLDHAM COUNTY**  
**ORDINANCE NO. 05-830-326**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE #04-830-204 AND ESTABLISHING  
REGULATION FOR THE CONTROL OF CONSTRUCTION SITE RUNOFF OF POLLUTANTS AND  
SEDIMENT TO THE STREAMS AND WATERWAYS OF OLDHAM COUNTY.**

WHEREAS, Oldham County has been identified to comply with the requirements of the Federal Environmental Protection Agency through the Federal Water Pollution Act (33 USC § 1251 et seq.) and other regulation; and,

WHEREAS, Oldham County has the statutory authority to provide for the protection of its citizens and natural resources; and,

WHEREAS, uncontrolled Stormwater drainage and discharge may have a significant adverse impact on the health, safety and welfare of the citizens of Oldham County, Kentucky; and,

WHEREAS, surface water runoff can carry pollutants and sediment into receiving waters; and,

WHEREAS, the adverse Stormwater quantity and quality consequences described above may result in substantial economic losses. Potential losses include, but are not limited to, increased drinking water and wastewater treatment costs, diminished property values, as well as state and federal fines associated with Stormwater quality violations; and,

WHEREAS, every parcel of property, both private and public, either uses or benefits from Oldham County's Stormwater system; and,

WHEREAS, past growth has contributed, and current and anticipated growth will contribute to the need for an effective Stormwater system.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE FISCAL COURT OF  
THE COUNTY OF OLDHAM, COMMONWEALTH OF KENTUCKY:**

Section 1 – Title, Purpose and General Provisions.....	2
Section 2 – Definitions.....	2
Section 3 – Demonstration of Need.....	5
Section 4 – Objectives.....	6
Section 5 – Exemptions.....	7
Section 6 – Authority and Right of Entry.....	7
Section 7 – Perimeter Control Plan.....	8
Section 8 – Perimeter and Outfall Inspections.....	8
Section 9 - Other Inspections.....	9
Section 10 – Stormwater Quality Management Permit ("Stormwater Permit").....	10
Section 11 – Fees.....	14
Section 12 – Stormwater Permit Inspections.....	14

Section 13 - Qualified Professional .....	16
Section 14 – Enforcement .....	18
Section 15 - Securities (Bonds and Bond Releases).....	20
Section 16 – Penalties .....	23
Section 17 - Appeals and Mediation Process.....	23
Section 18 – Compatibility and Severability .....	24
Section 19 – Effective Date .....	24

**Section 1 – Title, Purpose and General Provisions**

**1. Title**

This article shall be known as the "Construction Site Runoff Control Ordinance" of Oldham County ("the County"), Kentucky, and may be so cited.

**2. Purpose**

The purpose of this ordinance is to provide regulations and measures that will address the issue of clean Stormwater in the County and to establish procedures by which these requirements are to be administered and enforced.

**3. Jurisdiction**

- a. The Construction Site Runoff Control Ordinance shall govern all unincorporated properties within the jurisdictional boundaries of the County, and all incorporated area within the boundaries of the County in which the incorporated areas have passed a resolution and are co-permittee’s on the County Kentucky Pollutant Discharge Elimination System (KPDES) Municipal Separate Storm Sewer System (MS4) permit supporting the enforcement of this ordinance.
- b. Adherence to this ordinance in no way circumvents or eliminates the requirements of the state or federal regulations. Permits may be required by the Kentucky Division of Water and/or the United States Army Corps of Engineers.

**Section 2 – Definitions**

- 1. Best Management Practices (BMP’s) shall mean those measures described in the latest edition of the "*Kentucky Erosion Prevention and Sediment Control Field Guide*" as published by the Kentucky Division of Water and "*Best Management Practices for Construction Activities*" as published by the Kentucky Division of Conservation and Division of Water. This shall also include related documents published and distributed by Oldham County.
- 2. Builder shall mean a person, partnership, or corporation constructing one or more buildings for occupancy or any other use.
- 3. Certification shall mean a signed, written statement that specific constructions,

inspections or tests (when required) have been performed and that such comply with the applicable requirements of this subtitle.

4. Contractor shall mean a person who contracts with the Permittee, landowner, developer or another contractor to undertake any or all of the land-disturbing activities covered by this Ordinance.
5. Construction Weather Days shall mean days in which a needed activity could occur.
6. County shall mean a representative or designee of Oldham County government to include persons from the County Engineer's office.
7. 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.
8. Development shall mean a 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.
9. Drainage Area shall mean the area from which water drains to a point of consideration.
10. Engineer shall mean a person licensed as a professional engineer in the Commonwealth of Kentucky in accordance with KRS 322.
11. Erosion Prevention and Sediment Control (EPSC) Measure shall mean the practice, or a combination of practices, to prevent erosion and to abate the resulting off-site sedimentation.
12. Final Stabilization shall mean that (1) all soil disturbing activities at the site have been completed; (2) there are no areas of active erosion evident; and (3) a uniform perennial vegetative cover with a density of 70% of the cover for the area has been established or equivalent measures, i.e. mulches or geotextile fabrics, have been employed.
13. Floodplain shall mean any area inundated by a 100-year flood or as determined by the Flood Insurance Rate Map(s) or an engineering study.
14. Floodway shall mean the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the peak flow of the regulatory flood of any river or stream. The floodway is where the water is likely to be deepest and fastest and includes the channel & the portion of the adjacent floodplain required to pass the 100-year flood without increasing flood heights.
15. Land-Disturbing Activity shall mean all clearing and grubbing, clear cutting, construction, reconstruction, grading, modification, extension or expansion of structures or parking areas, placement of fill and dumping that change the natural cover or topography, thereby creating the potential for erosion and contribution of sediment.

16. Landowner shall mean a person, firm or governmental agency holding legal title who directly or indirectly allows the land-disturbing activity or who benefits from it.
17. Land surveyor shall mean a person licensed as a professional land surveyor in the Commonwealth of Kentucky according to KRS 322.
18. 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).
19. Oldham County Engineer shall mean the person currently employed by Oldham County Fiscal Court to serve as County Engineer or its designee.
20. Outfall shall mean the point or location where Stormwater runoff discharges from a conduit, stream or drain, storm sewer, channel, or detention/retention facility.
21. Perimeter Outfall shall mean the locations from which Stormwater flow(s) from the project site / disturbed area.
22. Perimeter Control Plan (PCP) shall mean that portion of a Stormwater Quality Management Plan that documents how sediment is controlled from leaving the project site.
23. Permittee shall mean the "Person responsible for the Land-Disturbing Activity" and who must have ownership interest in the property.
24. 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, county or other political subdivision of the State, any interstate body or any other legal entity conducting land-disturbing activities subject to this ordinance.
25. Project Site shall mean the area of Land Disturbing Activity.
26. Qualified Professional shall mean an individual who is trained and experienced in Stormwater treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make sound, professional judgments regarding Stormwater control or treatment and monitoring, pollutant fate and transport, and drainage planning. This includes, but is not limited to, licensed professional engineers and licensed land surveyors and certified erosion prevention and sediment control professionals.
27. 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.

28. Single Family Residential shall mean property zones and used for residential activity that includes up to duplex residential structures with exclusion of triplex or higher, apartment and/or condominium land uses.
29. Site shall mean the entire area of the land-disturbing activity as proposed in the permit application.
30. Stop Work Order shall mean an order directing a Permittee to suspend all construction and/or operations except for work related to remediation of the violation.
31. Storm Sewer shall mean an open or closed conduit for conveying collected Stormwater.
32. Stormwater Quality Management Permit is a legal document that allows the permit holder to break ground or disturb soil on an entire construction site within the provisions of a Grading Plan and a Stormwater Pollution Prevention Plan.
33. Stormwater Quality Management Plan (SWQMP) shall mean illustration and documentation of how sediment and other construction pollutants are managed on the project site. This is composed of two primary elements: 1) the Perimeter Control Plan and 2) the Stormwater Pollution Prevention Plan.
34. Stormwater Pollution Prevention Plan (SWPPP) shall mean that portion of a Stormwater Quality Management Plan that illustrates how the suspension of sediment and other construction pollutants will be prevented.

### **Section 3 – Demonstration of Need**

1. Potential impacts include the following:
  - a. Changing natural ecosystems through the destruction of habitat and the loss of plant and animal life.
  - b. Posing significant health risks through an increase in bacteria and toxic materials.
  - c. Accelerating eutrophication of receiving waters by introducing excessive nutrients.
  - d. Increasing metal deposits creating toxicity for aquatic life.
  - e. Reducing oxygen levels because of oil, grease and organic matter.
  - f. Adversely affecting animal and plant life due to changing temperatures of receiving waters.
  - g. Accumulating excess sediment and/or debris that limit the function of flood control infrastructure.

#### Section 4 – Objectives

1. Protection of the short-term and long-term public health, safety, general welfare. This objective will be achieved by the following:
  - a. Providing for regulation and management of Oldham County's Stormwater system, including public and private facilities in Oldham County's service area.
  - b. Protecting, and preserving Stormwater quality and fish and wildlife habitat within Oldham County and in downstream receiving waters.
  - c. Protecting those downstream 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. The objectives of these regulations include the following:
  - a. Managing the quality of Stormwater discharged to the MS4 by controlling the contribution of pollutants associated with residential, commercial and industrial activity.
  - b. Controlling Stormwater pollution caused by the suspension and transport of soils and other sediments.
  - c. Protecting or enhancing Stormwater quality to a level of "designated use" as defined by the Cleanwater Act Section 305(b) and 303(d) and minimizing the impacts from new development and/or areas of significant redevelopment.
  - d. Helping to maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the community's Stormwater resources.
  - e. Minimizing damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges.
  - f. Ensuring the use of the public and private Stormwater management system that will not result in excessive maintenance costs.
  - g. Encouraging the use of natural and aesthetically-pleasing designs that maximize the preservation of natural areas.
  - h. Controlling the discharge of sediment and construction site materials into the Stormwater system.

- i. Guiding the construction of Stormwater management facilities by developing comprehensive master plans and guidance that address Stormwater quantity and quality.
- j. Encouraging the preservation of floodplains, floodways and open spaces to protect and benefit the community's quality of life and natural resources.

### **Section 5 – Exemptions**

1. The following activities are exempt from the provisions of this ordinance:
  - a. Agricultural and Silvicultural (woodland production) operations according to an Agricultural Water Quality Plan approved by the Oldham County Conservation District or approved as required in the Kentucky Agricultural Water Quality Plan developed in accordance with the Kentucky Agricultural Water Quality Authority.
  - b. Land reclamation projects regulated by the Kentucky State Department for Surface Mining Reclamation and Enforcement.
  - c. Additions or modifications to existing, detached single-family dwellings.
  - d. Redevelopment or renovation that does not disturb more than 2,500 square feet of land.

### **Section 6 – Authority and Right of Entry**

1. Upon written request to the Person, the County shall have safe and easy access to the areas to be inspected and/or monitored.
  - a. The County shall have the right-of-entry on or upon the project site. The County 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.
  - b. 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 County will be permitted to enter without delay for the purposes of performing specific responsibilities.
  - c. The County 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.

## **Section 7 – Perimeter Control Plan**

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

### **a. Control Plan Goals**

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

### **b. Control Plan Requirements**

- i. The Permittee shall utilize sediment control measures that consider the type of flow, site terrain, soil type and other relevant factors.
- ii. Buffer strips may only be utilized for sheet flow.
- iii. Supplemental control measures shall be utilized when a single control device or measure proves ineffective.
- iv. Location and description of construction entrances and exits that comply, at a minimum, with BMP standards.

## **Section 8 – Perimeter and Outfall Inspections**

1. The Perimeter and Outfall Protection Inspection must be performed prior to the Permittee's breaking ground or disturbing soil with exception for installation of sediment control practices at the hydrologic perimeter and outfall(s) of a construction site. The inspection shall include participation by the County, the Permittee and the Permittee's Contractor.
2. The Perimeter and Outfall Protection Inspection may only be performed after the review and acceptance by the County of a Perimeter Control Plan.

3. Clearing, except that necessary to establish perimeter sediment control devices, shall not begin until perimeter and outfall sediment control devices have been installed and have been stabilized.
4. The County shall inspect the proposed construction site within seven (7) calendar days after the submittal of the plan and installation of the perimeter protection devices.
  - a. The inspector shall in writing either approve the portion of work completed or notify the Permittee where the work fails to comply with the approved perimeter protection plan.
  - b. Failure by the County to perform the inspection within seven (7) days will allow the Permittee to begin land-disturbing activities, but may be subject to subsequent inspections by the County and revisions in the Perimeter Protection Plan.
  - c. Inspection of perimeter and outfall protection measures shall consist of a written checklist for each type of protective measure to ensure that it was installed according to the approved plan and site-specific conditions.
  - d. Measures shown on the plan may be modified at the time of inspection pursuant to agreement between the County and the Permittee's Engineer.

### **Section 9 - Other Inspections**

1. The County may inspect a permitted construction site in order to ensure compliance with this ordinance.
  - a. The County may determine and establish inspection schedules necessary to enforce the provisions of this article.
  - b. Inspections may include, but are not limited to, the following:
    - i. An initial inspection prior to Stormwater Management Plan approval.
    - ii. An inspection prior to installation of any underground drainage structure.
    - iii. Inspections to ensure effective perimeter control of sediment prior to other construction, clearing or grubbing on the site.
    - iv. Inspections to ensure effective control of sediment prior to discharge to the MS4.
    - v. Inspections to verify that action plans identified in previous site visits were successfully implemented.
    - vi. A final inspection when all work, including installation of storm management facilities, has been completed.

## Section 10 – Stormwater Quality Management Permit ("Stormwater Permit")

1. The Permit shall only be fully implemented after the Perimeter/Outfall Protection inspection has been performed and any corrective actions have been implemented by the Permittee and accepted by the County.
2. The Person shall obtain from the County a Permit prior to the initiation of any land-disturbing activities that result in the disturbance of one (1) acre or more of land.
3. By accepting the Permit, the Permittee acknowledges that the County has the right to perform inspections of the project site.
4. The Permittee shall complete a Permit application that includes a Stormwater Pollution Prevention Plan ("SWPPP") to be completed, sealed and signed by a licensed professional engineer and/or land surveyor as appropriate and submitted to the Oldham County Engineer.
5. The plan shall include and/or address the following elements:
  - a. Area Vicinity Map showing current zoning, adjoining property owners, and street lines within one hundred feet (100') of the project boundaries all drawn at a scale not greater than 1" = 2,000'.
  - b. North arrow and its basis.
  - c. Legend explaining symbols and abbreviations used on the plan.
  - d. "Do Not Disturb Limits" for construction activity indicated by a heavy dashed line and labeled as such.
  - e. Boundary of site defined by bearings and distances and indicated by a heavy solid line.
  - f. Drawing is at a scale not greater than 1" = 100'. In the case of an unusually large development, a scale of 1" = 200' may be acceptable.
  - g. Acreage of the total site and acreage of the project site (if different).
  - h. Benchmark location(s), description(s) and elevation(s) at sea level.
  - i. Basis of elevation datum.
  - j. Name, address and telephone number of the owner, developer, Permittee and project engineer.
  - k. Existing and proposed topography at two-foot contour intervals.

- l. Mapping accuracy shall conform to National Standards of Mapping.
- m. Location of sinkholes, streams, known springs and watercourses.
- n. Location of any existing buildings or structures.
- o. Location of any pertinent utilities, sanitary sewers, water and Stormwater facilities on the property or within 100 feet of the site.
- p. Elevations, dimensions, locations and the extent of all planned grading indicated with proposed contours.
- q. A grading plan for borrow pits, quarries and material-processing facilities based on the findings and evaluation of the Oldham County Conservation District soil site investigations report or any other investigation report.
- r. Design details of temporary and permanent structural controls.
- s. Approximate location of the 100-year floodplain or a statement by a professional engineer or professional land surveyor that the site is not located in an area subject to flooding. The basis for this determination shall be shown.
- t. A detailed quantity estimate for Stormwater management controls and measures.
- u. Identification of perimeter controls at outfalls and areas where construction site drainage leaves the property boundary or disturbed area(s).
- v. Arrows indicating drainage flow patterns.
- w. Location, dimensions, detailed specifications, and construction details of all temporary and permanent Stormwater quality measures.
- x. Temporary stabilization plans and sequence of implementation.
- y. Permanent stabilization plans and sequence of implementation.
- z. Anticipated construction sequence describing the relationship between implementation of Stormwater quality measures and stages of construction activities.
- aa. Anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities such as removal of sediment and waste concrete.
- bb. Management practices or other controls to address the following:

- i. Waste concrete management
- ii. Material delivery, handling and storage
- iii. Sanitary/ septic waste management
- iv. Solid waste/ trash and debris management
- v. Vehicle and equipment cleaning, fueling and maintenance
- vi. Sensitive and vegetated area preservation
- vii. Dewatering operations
- viii. Contaminated soil management as defined and approved by the Kentucky Divisions of Water and Waste Management
- ix. Hazardous materials and waste management as defined and approved by the Kentucky Divisions of Water and Waste Management
- x. Pesticides, herbicides and fertilizer use

6. Plan Revisions

The Permittee shall notify the County in writing of any substantial field changes made to the approved Stormwater Plan. Changes made to the Plan must be approved by the County.

7. Plan Review and Permit Issuance

The County shall review the SWPPP within 14 calendar days from date of submission and issue or deny the requested permit. Failure to do so will allow the Person to proceed with land-disturbing activities in accordance with BMPs and the submitted SWPPP.

8. Requirements for Individual Lots

- a. Although a separate Stormwater permit is not required for individual lots disturbing less than one (1) acre within a larger permitted project, a building permit is required.
- b. All Stormwater management measures necessary to comply with this ordinance must be implemented in accordance with the permitted plan for the larger project.
- c. The individual Permittee is responsible for the installation and maintenance of all erosion prevention and sediment control measures until the site is stabilized.

- d. The Permittee, whether owning the property or acting as the representative of the property owner, shall submit to the County the following information for review and approval prior to the issuance of a building permit:
  - i. Dimensions, elevations, drainage patterns and swales, and location of existing buildings and natural features that are pertinent to this ordinance;
  - ii. Proposed drainage patterns;
  - iii. Location of the construction access to the site; and
  - iv. Location of perimeter erosion and sediment control measures prior to land disturbance.
- e. Temporary erosion prevention and sediment control measures may be removed for completion of the finish grade. Permanent stabilization to include either sod or mulched-seeding as appropriate for seasonal conditions shall be completed within fourteen (14) days of removal of temporary erosion prevention and sediment control measures.

9. Stormwater Permit Termination

- a. The Permittee shall submit a Notice of Permit Termination letter to the County.
- b. Written acceptance of site conditions shall be made by the County based upon an inspection.
- c. The County shall consider whether conditions are sufficient, appropriate and consistent with the Stormwater Plan.
- d. A Permit shall be considered open and active until the County accepts the site conditions and after the following as-built requirements have been completed:
  - i. All temporary erosion and sediment control measures have been removed.
  - ii. The remaining, undeveloped acreage that was subject to the permit does not exceed five (5) acres. Furthermore, the remaining five (5) or more acres is not composed of portions that abut to sum one (1) acre or more.
  - iii. The designed public utilities are installed and have been inspected by the appropriate agencies.
  - iv. The street(s) have been constructed and the binder course of pavement has been placed in accordance with the standards in the Subdivision Regulations.

- v. The remaining undeveloped acreage that was subject to the permit does not pose a significant threat to the integrity of the infrastructure, adjacent properties or Stormwater quality.
- vi. All permanent Stormwater quality measures have been implemented and are operational at the designed levels.
- vii. Pipes, channels, catch basins, Stormwater quality treatment devices and other drainage features are clear of sediment, obstructions and debris, and are operating as designed and appropriate for final site conditions.
- viii. Disturbed slopes are stabilized.
- ix. Detention and retention basins are stabilized at designed volumes and conditions.

10. As-built Requirements

- a. Prior to the final bond release the Permittee shall furnish to the County appropriately modified construction plans or as-built drawings prepared by a Professional Engineer certifying that final conditions are consistent with, or exceed, the Stormwater Permit provisions.
- b. This does not apply for individual residential lot development.

**Section 11 – Fees**

- 1. The plan review, permit and inspection fee for the Stormwater Quality Management Permit for all land-disturbing activities that are subject to permit requirements shall be the following:
  - a. One hundred dollars (\$100.00) per lot for single-family residential development.
  - b. One hundred dollars (\$100.00) per acre of disturbance with a maximum of two thousand five hundred dollars (\$2,500.00) for all other land uses.

**Section 12 – Stormwater Permit Inspections**

- 1. Permittee-performed Maintenance Inspections
  - a. Only a Qualified Professional shall perform maintenance inspections.
  - b. Maintenance inspections shall be performed at all control measures at least every seven (7) calendar days and within twenty-four (24) hours of a one-half (0.5) inch

rain event. The Permittee shall begin repair actions within seven (7) calendar days after deficiencies or failures have been identified.

- c. The Permittee shall document all maintenance inspections in writing and records shall be made available upon written request by the County.
- d. The County shall develop standards and a checklist to be used by the Permittee for the inspections.
- e. Within forty-eight (48) hours after receiving a written request from the County, the Permittee shall submit to the County all records pertaining to maintenance inspections that have been performed at the permitted site.

## 2. Oversight Inspections

- a. The County is authorized to perform periodic inspections of the permitted site including review of inspection records maintained by the Permittee.
  - i. The County shall notify the permittee in writing of any elements that do not comply with the Stormwater Plan or of any implemented measures that are ineffective.
  - ii. The Permittee shall notify the County in writing that all noted deficiencies or failures have been addressed or corrected.

## 3. Corrective Actions

- a. The County shall identify in writing any measures not in compliance with the objectives of this ordinance and the Stormwater Permit.
- b. The County is authorized to negotiate with the Permittee to develop and implement an action plan that exceeds the Stormwater Permit provisions, but is necessary to prevent Stormwater pollution from leaving the site.

## 4. Required Inspections

- a. The Permittee shall notify the County in writing at least two (2) working days before the following activities.
  - i. Request for bond release inspection(s). The Oldham County Engineer shall inspect the Stormwater control measures. If deficiencies are noted, the needed improvements must be made by the Permittee before any additional inspections occur.
  - ii. Termination of permitted activities.

### Section 13 - Qualified Professional

1. A Qualified Professional is required to perform all inspections and to direct and/or supervise maintenance activities to ensure that the Stormwater Permit provisions are being implemented properly.
  - a. Registration
    - i. All Qualified Professionals must be registered by the County and must file an application with the County.
    - ii. Applicants must demonstrate knowledge and experience in the following areas:
      - (1) Construction practices;
      - (2) Operational standards;
      - (3) Cause and failure indicators; and
      - (4) Maintenance measures used to prevent and correct failures.
  - b. Fees and Training
    - i. The County may establish a fee schedule for registration of Qualified Professionals.
    - ii. The County may establish a training course and/or a test that must be satisfactorily completed by a Qualified Professional as often as every five years.
    - iii. Until the County develops a testing policy, applicants who can demonstrate one or more of the following will be considered for registration:
      - (1) Professional Engineer license in good standing in the Commonwealth of Kentucky with demonstrated experience in erosion prevention and sediment control on construction sites.
      - (2) Professional Land Surveyor license in good standing in the Commonwealth of Kentucky with demonstrated experience in erosion prevention and sediment control on construction sites.
      - (3) Landscape Architect license in good standing in the Commonwealth of Kentucky with demonstrated experience in erosion prevention and sediment control on construction sites.

- (4) Professional in Erosion and Sediment Control Certification in good standing.
- (5) Professional in Stormwater Quality Certification in good standing.
- (6) EPSC Inspector Certification in good standing from the Louisville and Jefferson County Metropolitan Sewer District.
- (7) Similar certification of any other similar program in the Commonwealth of Kentucky or in the United States so long as that program required a test and the applicant passed the test.

iv. Documentation demonstrating the above will be required by the County before registration will be granted.

c. Suspension and Revocation

The County may suspend or revoke the registration of a Qualified Professional for activities not consistent with the policies and procedures identified in this ordinance. This may include registration suspension for submittal of false or misleading information or for repeated incompetence or negligent actions by the registrant. In the case of incompetent or negligent actions, the County must issue a written warning and evaluate subsequent actions before suspending or revoking the registration.

d. Appeals

i. The County shall give written notice to a Qualified Professional whose registration is subject to an action for suspension or revocation.

- (1) The County shall provide the Qualified Professional an opportunity at an informal meeting with the County to demonstrate why no action is warranted.
- (2) Any Qualified Professional whose registration is revoked or suspended may appeal that decision to Oldham Code Enforcement Board.

e. Reinstatement

A Qualified Professional whose registration has been suspended or revoked, may apply for reinstatement upon completing the requirements established in this ordinance after a period of at least one (1) year.

## Section 14 – Enforcement

1. It will be the responsibility of the Permittee to ensure compliance with this Ordinance and implementation of the SWPPP; however, all persons, regardless of ownership, engaging in construction and land disturbing activities on a permitted project site must comply with the requirements of this ordinance and may be held accountable to the enforcement provisions herein.
2. Enforcement Mechanisms
  - a. It is the intent of this ordinance that a process of collaborative compliance be pursued, when possible, prior to enforcement measures.
  - b. Violations may be enforced through any or all of the following measures:
    - i. Notice of Deficiency
    - ii. Notice of Violation
    - iii. Civil Penalties
    - iv. Permit Suspension and/or Revocation
    - v. Stop Work Order
    - vi. Proceedings in Law
  - c. The enforcement measures implemented in the order presented in above paragraph b shall constitute the standard of practice for an escalating collaborative enforcement process to be implemented by the County.
  - d. If in the County’s opinion the activities or lack of activity of the Permittee warrant or necessitate a more intensive enforcement mechanism, the County may pursue those enforcement measures. The County shall make the assessment of warrant and/or necessity based on a number of factors including, but not limited to, history of non-compliance, perceived blatant disregard for the requirements or immediate adverse impact to adjacent properties or the MS4.
3. Notice of Deficiency (NOD)
  - a. In instances when the County, based on observations or investigations, has reasonable cause to believe that a deficiency of this ordinance has occurred, the County is authorized to notify the Permittee in writing of the following items:
    - i. Date and location of site observation(s) or investigation(s).
    - ii. An itemized list of any deficiencies or failures.
    - iii. A deadline in which the deficiencies are to be eliminated.

- iv. The written Notice of Deficiency shall be hand-delivered and/or sent by certified mail to the Permittee.
  - b. It will be the responsibility of the Permittee to determine what corrective actions are needed. If the deadline for eliminating the deficiency is not met, it is responsibility of the Permittee to document that the deadline has not been met and request an extension to be evaluated by the County on a case by case basis.
- 4. Notice of Violation (NOV)
  - a. The County is authorized to issue a written Notice of Violation that shall specify the deficiencies/violations, the necessary corrective action, and a specific time frame within which corrective action shall occur.
    - i. The specification of a reasonable time frame within which such corrective action shall occur will be based upon fourteen (14) construction weather days.
    - ii. The written Notice of Violation shall be hand-delivered and/or sent by certified mail to the Permittee.
    - iii. The Permittee shall notify the County in writing of the anticipated date for completion of the corrective action(s).
    - iv. When compliance measures specified in the Notice of Violation are satisfactorily completed based upon inspection by the County on or after the anticipated completion date, the County shall provide a written notice of acceptance and confirmation of compliance.
- 5. Civil Penalties
  - a. The County is authorized to issue Civil penalties.
- 6. Permit Suspension or Revocation
  - a. In the event compliance cannot be achieved within the terms of a Notice of Deficiency and/or Notice of Violation, the County may proceed with permit suspension or revocation.
  - b. Land-disturbing activities are not allowed on a project site when a permit has been suspended or revoked other than those required to address deficiencies / violations.
  - c. The written Permit Suspension or Revocation shall be hand-delivered and/or sent by certified mail to the Permittee.
  - d. A Permit Suspension requires that the Permittee submit a revised portion of SWQMP as indicated by the County for review and acceptance by the County of

the specific issue of contention. When a Permit Suspension is removed, the County shall provide written notice to the Permittee.

- e. When a permit is revoked, the Permittee must reapply for a permit through the process of requesting a new Permit.
- f. A Permit Revocation requires that the Permittee resubmit a SWQMP for a full review and acceptance by the County.

7. Stop Work Order

- a. In the event compliance can not be achieved within the terms of a Notice of Deficiency, Notice of Violation, Permit Suspension or Permit Revocation, the County may proceed with a Stop Work Order. In the event the County perceives that there is an immediate adverse impact or blatant disregard for the requirements, it may issue a Stop Work Order without first administering a Notice of Deficiency, Notice of Violation, Permit Suspension or Permit Revocation.
- b. No construction activities, other than those required to address deficiencies / violations, are allowed on a project site when a Stop Work Order has been issued.
- c. The written Stop Work Order shall be sent by certified mail to the Permittee.
- d. The written Stop Work Order shall specify deficiencies and violations that must be corrected prior to a County inspection for consideration of removing the Stop Work Order.
- e. The Permittee shall notify the County in writing of the anticipated date for completion of the corrective action(s) and provide at least two (2) normal business days notice for the County to perform a compliance inspection.
- f. When a Stop Work Order is removed, the County shall provide written notice to the Permittee.

8. Proceedings in Law

If the enforcement mechanisms described in this Section prove to be unsuccessful in reaching compliance or there is a blatant disregard for the requirements or there is an immediate adverse impact to adjacent private or public property, the County may proceed with all procedures afforded it under the laws of the Commonwealth of Kentucky.

**Section 15 - Securities (Bonds and Bond Releases)**

1. Purpose and Intent

The intent of this section is to establish the procedures for setting a Stormwater Permit bond amount and to establish the bond reduction and release requirements.

## 2. Applicability

This section shall apply to all land-disturbing activities subject to this ordinance. For subdivisions the bond will cover all the erosion and sediment control devices and cover Stormwater facilities that are outside the road right of way and that are not appurtenant to the road drainage system. For individual sites requiring a Stormwater Permit, the bond will cover the erosion and sediment control devices, detention/retention basins, and all related construction.

## 3. Stormwater Permit Bond

- a. A bond in the amount of one hundred thirty percent (130%) of an engineer's probable cost opinion for the approved Stormwater control devices and measures shall be posted before any land-disturbing activities occur.
- b. A Stormwater Permit shall not be issued for land-disturbing activities until the Permittee posts the appropriate bond with the County. The bond shall be an acceptable surety as defined in Section 4.6(A) of the Oldham County Subdivision Regulations and be in the name of Oldham County Fiscal Court.
- c. The bond shall include the following provisions:
  - i. The Permittee shall comply with all the provisions of this ordinance that apply to the proposed land-disturbing activities and all other applicable laws and ordinances.
  - ii. The Permittee shall continue inspections and maintenance as described in the Stormwater Permit until the County accepts the post-construction site conditions.
  - iii. An "Evergreen Clause" shall be included on the bond and expiration dates shall meet the intended schedule of construction.
  - iv. The bond shall remain in full force and effect until the termination activities have been recognized and approved by the County.
  - v. Failure to complete corrective actions within 30 days when a Stop Work Order has been issued shall cause the bond to be forfeited to the County and the matter turned over to the Oldham County Attorney.

## 4. Bond Reduction

- a. The Stormwater Permit bond may be reduced once when the designed devices and control measures are in place and functioning.
- b. The following procedure shall be used when a Permittee requests a bond reduction:

- i. The Permittee shall submit a written request to the County for the bond reduction. The written request shall include the project engineer's sealed certification regarding substantial completion of the construction.
- ii. The County shall make a written report regarding inspections and whether a bond reduction is warranted.
- iii. When the County's written report includes a recommendation for the bond reduction, the County will send out a bond reduction letter based on that recommendation within ten (10) working days.
- iv. The bond will be reduced to an amount that is fifty percent (50%) of the original bond amount

5. Bond Release

- a. The bond may be released when all requirements are met:
  - i. For residential subdivisions - seventy percent (70%) of the houses have passed the rough electric and framing inspections in a specific approved phase of the subdivision or up to three (3) years time has elapsed from the date the permit was issued.
  - ii. For commercial or industrial subdivisions - buildings have been constructed on seventy percent (70%) of the lots in a specific approved phase of the subdivision or up to three (3) years time has elapsed from the date the permit was issued.
  - iii. For individual sites to include apartments and condominiums - the land-disturbing activities are complete or three (3) years time has elapsed from the date the permit was issued.
  - iv. Once the requirements set forth above have been met, the Permittee can request release of the remaining Stormwater Permit bond.
- b. The following procedure shall be used when a Permittee requests a bond release:
  - i. The Permittee shall submit a written request to the County for bond release. The written request shall include the project engineer's sealed certification regarding substantial completion of construction in accordance with this ordinance and the Stormwater Permit.
  - ii. The County shall inspect the subdivision or project within seven (7) calendar days. If deficiencies are noted, the Permittee, according to the procedures in this ordinance, must make the needed improvements before any additional inspections occur.

- iii. The County shall report in writing regarding the inspections and whether a bond release is warranted. The County's written report shall include a recommended action regarding the bond release. When the County's written report contains a recommendation for a bond release, the County will seek approval from the Oldham County Fiscal Court. Upon said approval, the County will then send out a bond release letter within ten (10) working days.
- c. Upon receiving the bond release letter, the Permittee shall be released from all further obligations under this ordinance with the exception that the application of Best Management Practices shall continue after bond release until all construction has ceased.

### **Section 16 – Penalties**

Any person notified in writing by the County of violating any provisions of this ordinance shall be charged with a Class A misdemeanor and shall, upon citation to court and subsequent conviction, be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or be imprisoned for a period not to exceed twelve (12) months, or both so fined and imprisoned. Each day a violation continues after notification by the County shall constitute a separate offense.

### **Section 17 - Appeals and Mediation Process**

1. In the event that the County Engineer and the Engineer ("Project Engineer") are unable to reach agreement on construction plans to meet the requirements of this article, the Project Engineer may request mediation.

A. Upon written request for mediation, the County Engineer and the Project Engineer shall forthwith discuss and attempt to agree upon a third-party licensed professional engineer to mediate the points of difference.

B. If the County Engineer and the Project Engineer are unable to agree upon a mediator and/or to resolve the differences in mediation, either party may then seek a legal remedy.

2. The time and related expenses of the mediating engineer, if one is chosen, shall be borne by the client of the Project Engineer.

3. The mediating engineer shall document and transmit his/her opinions and conclusions in writing to both the County Engineer and the Project Engineer upon completion of the mediation process. The mediating engineer's recommendations shall be in his/her discretion and shall not be limited to agreement with either the County Engineer's position or the Project Engineer's position. All engineers shall make a good-faith professional effort throughout the mediation to arrive at a consensus.

**Section 18 – Compatibility and Severability**

1. Should any article, section, subsection, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.
2. If any provisions of this Ordinance and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

**Section 19 – Effective Date**

1. All sections of this ordinance shall take effect upon passage.
2. Adopted by the Oldham County Fiscal Court, Oldham County, Kentucky at a regular meeting on the 20th day of December, 2005 and on the same occasion signed in open session by the County Judge/Executive as evidence of approval, attested under seal by the Oldham County Fiscal Court Clerk, and declared to be in full force and effect.

Original Signature on file  
MARY ELLEN KINSER  
Oldham County Judge/Executive

ATTEST:

Original Signature on file  
SHARON L. HERNDON  
Oldham County Fiscal Court Clerk