

WARREN COUNTY FISCAL COURT

ORDINANCE NO. 06-17WC

**STORMWATER MANAGEMENT (EPSC) ORDINANCE**

**BE IT ORDAINED BY THE FISCAL COURT OF WARREN COUNTY KENTUCKY  
AS FOLLOWS:**

**WHEREAS,** the Federal Clean Water Act, the Federal Environmental Protection Agency and the Kentucky Department of Water mandate the introduction and implementation of Erosion Prevention and Sediment Control (EPSC) procedures for stormwater runoff in the Commonwealth of Kentucky; and

**WHEREAS,** Phase II of EPA's stormwater program requires Warren County to meet the water quality goals set by the Clean Water Act; and

**WHEREAS,** it is in the interest of Warren County and promotes the health, safety and welfare of its citizens to prevent the pollution, impairment or destruction of its natural resources; and

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

THAT the Warren County Stormwater Management Ordinance, attached hereto as Exhibit A and incorporated herein as if set forth in full, is hereby adopted.

THAT all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

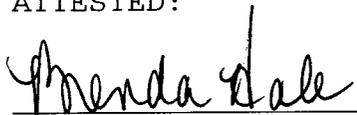
THAT, this Ordinance is adopted pursuant to KRS 67.077 in that it was published in summary form on the 15<sup>th</sup> day of

March, 2006, and was introduced and read on the 14<sup>th</sup> day of  
March, 2006, and given final reading on the 28<sup>th</sup> day of  
March, 2006, and said Ordinance shall be in full force and  
effect upon signature, recordation, and publication in summary  
pursuant to KRS Chapter 424 and KRS 67.777, subsection 3.

APPROVED this 28<sup>th</sup> day of March, 2006.

  
MICHAEL O. BUCHANON  
WARREN COUNTY JUDGE EXECUTIVE

ATTESTED:

  
WARREN FISCAL COURT CLERK

PASSED BY VOTE OF 7 TO 0.

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WARREN COUNTY STORMWATER MANAGEMENT

Stormwater Ordinance

Erosion Prevention and Sediment Control (EPSC) Ordinance

I. DEFINITIONS

"Best Management Practice (BMP)" shall mean a measure that is implemented to protect water quality and reduce the potential for pollution associated with stormwater runoff.

"Channel" shall mean a natural or constructed/manmade watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined channel.

"Clean Water Act (CWA)" shall mean those Federal regulations that prohibit the discharge of pollutants to waters of the United States unless such discharge is in accordance with an approved National Pollutant Discharge Elimination System (NPDES) permit.

"Clearing" shall mean any activity that removes vegetative surface cover.

"Critical Area" shall mean a site difficult to stabilize due to exposed subsoil, steep slope, extent of exposure or other conditions.

"Critical Flood Area" shall mean a watershed that has a FEMA Zone "A" or "AE" within the site or a location of historical flooding of roads or structures.

"Detention" shall mean the temporary delay of storm runoff prior to discharge into receiving waters. Retention is synonymous in meaning as it relates to this ordinance.

"Developer" shall mean any individual, firm, corporation, limited liability company, association, partnership, trust or other business entity involved in commencing proceedings to affect development of land for developers or others.

"Drainage Basin" shall mean a part of the surface of the earth that is occupied by and provides surface water runoff into a stormwater management system, which consists of a surface stream or a body of impounded surface water together with all tributary surface streams and bodies of impounded surface water.

"Drainage/Dry Well" shall mean a bored, drilled, driven, dug, or naturally occurring shaft or hole with a depth greater than the largest surface dimension; used to drain surface fluid, primarily stormwater runoff, into a subsurface formation.

"Erosion shall mean the wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.

"Erosion Prevention Sediment Control Plan (EPSC)" shall mean a set of plans prepared by or under the direction of a licensed professional engineer or other qualified individual or firm detailing the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

"Excavation" shall mean any portion of land surface or area from which earth has been removed or will be removed; the depth below original ground surface to remaining surface.

"Fill" shall mean the portion of land surface area to which soil, rock, or other materials have been or will be added; height above original ground surface after the material has been or will be added.

"Flood Plain" shall mean the relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water at the surface or subsurface (sinkholes), which has been or may be covered temporarily by floodwater. For purposes of this ordinance, the flood plain is defined as the area encompassed by a 100-year storm having a one percent chance of being equaled or exceeded in any given year.

"Grading" shall mean any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

"Impervious Surface" shall mean any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.

"Kentucky Division of Water (KYDOW) General Permit (KGP)" shall mean an agreement between the regulating authority and the Permittee, which specifies conservation practices that shall be implemented in the construction of activities specified in the terms and conditions of the general permit.

"Land Disturbance" shall mean the purposeful act of clearing, grubbing, excavating, or grading; disrupting ground surface by or for construction activities, including construction access/road, staging, and storage sites producing significant areas of exposed soil and soil piles.

"National Pollutant Discharge Elimination Systems (NPDES)" shall mean EPA's program to control the discharge of pollutants to waters of the United States. NPDES is a part of the Federal CWA, which requires point and non-point source dischargers to obtain permits. These permits are referred to as NPDES permits.

"Notice of Intent (NOI)" shall mean a formal notice to the EPA or a state agency having delegated NPDES authority that a construction project seeking coverage under a General Permit is about to begin.

"Notice of Termination (NOT)" shall mean a formal notice to the KYDOW having delegated NPDES authority that a construction project is complete and seeking release for the EPSC and the State General Permit.

"Perimeter Control" shall mean a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

"Permittee" shall mean the "Person Responsible for the Land Disturbing Activity."

"Public Storm Drain" shall mean the drain system provided by Warren County that is designed to help convey stormwater runoff; it also provides inlets for water to travel to holding areas attempting to remove excessive water from streets and other areas.

"Sediment" shall mean solid material, both mineral and organic, that in suspension is being transported or has been moved from its site of origin by air, water, or gravity as a product of erosion.

"Sediment Control" shall mean measures that prevent eroded sediment from leaving the site.

"Site" shall mean a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation subject to erosion or sedimentation as a result of cutting, filling, grading, or other disturbance of the soil.

"Stabilization" shall mean the use of practices that prevent exposed soil from eroding or establishment of vegetative cover (70% coverage or better of the cover for unpaved areas and area not covered by permanent structures or equivalent permanent stabilization measures).

"Start of Construction" shall mean the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

"Stormwater Management Plan (SWMP)" shall mean a plan that is based on hydrologic and hydraulic calculations to determine flood stage and required improvement to minimize impacts by development. The City - County Planning Commission is and continues to be the permitting authority for "quantity" plans which are a part of the SWMP. Water quality plans are required to be approved by the Office of Stormwater Management.

"Stormwater Pollution Prevention Plan (SWPPP)" shall mean a plan that meets, at a minimum, items A through H of Part IV of the KyR10 permit between the KyDOW and the USEPA. Stormwater regulations or permits that includes site map(s), an identification of construction/contractor activities that could cause pollutants in Flood Plain areas and the adjoining river, stream, watercourse, lake, or other body of standing water at the surface or subsurface

(sinkholes), and a description of measures or practices to control these pollutants. This plan is synonymous with the term "BMP Plan" used in the KYDOW General Permit.

"Temporary Protection" shall mean short-term stabilization of erosive sediment producing areas.

"Watercourse" shall mean any body of water including, but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated by the County of Warren.

"Waterway" shall mean a channel that directs surface runoff to a watercourse or to the public storm drain.

## **II. 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 disturbances which would change the flow characteristics of stormwater into the *MS4* or conveyance must submit an application and/or plans to be approved by the Warren County Office of Stormwater Management prior to the start of construction. 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 the *MS4* and its conveyance must submit an application and/or plans showing proposed temporary and permanent erosion prevention and sedimentation control methods to be used. The Warren County Office of Stormwater Management, prior to the start of construction, must approve this application and/or plan. Any start of construction prior to these approvals shall be subject to penalties as set out hereinbelow.

## **III. EROSION PREVENTION AND SEDIMENT CONTROL**

### **A. Purpose.**

The Clean Water Act, EPA and KYDOW established Phase II regulations and mandated Erosion Prevention 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 County. Any construction activity, regardless of disturbed area, 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 Warren County Office of Stormwater Management an EPSC Plan may be required.

B. Permits Required; Exceptions and Requirements

Permits are required for all site construction projects and/or land disturbances as set out hereinbelow. 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 permit application and/or plan 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 the contractor shall be responsible for implementing and maintaining all aspects of the plan. No permit shall be required from the County 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.

1. Grading and Drainage Plan (GDP). GDPs are required for improvements exceeding the (1) acre parameter set forth by KYR10.

Items required to be submitted to the County with the grading and drainage plan are the items specified by KYR10, an NOI and an EPSC plan.

2. Stormwater Management Plan (SWMP). SWMP is required for improvements that exceed the (1) acre parameter set forth by KYR10.

Items required to be submitted to the County with the SWMP are the items specified by KYR10, an NOI and an EPSC plan.

3. KYDOW General Permit (KGP). A KGP is required for improvements involving each overall cumulative disturbance greater than (1) acre and/or a single disturbance less than (1) acre that is part of an overall disturbance that is greater than (1) acre. Plans for grading, stripping, excavating and filling work shall be maintained on site

throughout the duration of the work or at an offsite location where they are readily available to the site for contractors, inspectors, and regulators. The developer shall contact Warren Countys Office of Stormwater Management after EPSC measures have been installed to request a Preconstruction Inspection. The permit shall be issued and site construction may commence upon completion of the Preconstruction Inspection and approval of the EPSC measures. Items required to be submitted to Warren Countys Office of Stormwater Management are the N.O.I. with an EPSC plan and the N.O.T.

C. Review and Issuance of Permit.

1. Warren Countys Office of Stormwater Management will review each application and/or set of plans for each overall cumulative disturbance greater than (1) acre and/or a single disturbance less than (1) acre that is part of an overall disturbance that is greater than (1) acre to determine its conformance with the provisions of this ordinance and the current Kentucky Building Code. 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, Warren Countys Office of Stormwater Management will:
  - a) Approve the application and/or plans where construction documents shall be approved in writing or by stamp, as Reviewed for Code Compliance or Released for Construction
  - b) Approve the application and/or plans subject to such conditions as may be necessary to meet the requirements and/or intent of the objectives of this ordinance, and issue the permit subject to these conditions; or,
  - c) Deny the application and/or plans, indicating the reason(s) and procedure for submitting a revised application and/or submission.
2. Warren Countys Office of Stormwater Management reserves the right to inspect the site prior to any construction activity in furtherance of the review process.
3. The Warren County Office of Stormwater Management's approval of the application and/or plans 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.

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D. Erosion Prevention and Sediment Control (EPSC) Plan.

1. The EPSC plan shall include the following:

a) Site Description:

The BMP plan shall include a clear description of the nature of the construction activity, the order of major soil disturbing activities, estimates of the total project area and the total disturbed area, the post construction runoff coefficient, any existing data describing soil condition or discharge quality, receiving water name, and a site map. The site map shall indicate drainage patterns and show approximate slopes after grading, areas of disturbance, the location of control measures surface waters or wetlands, and stormwater discharge locations,

b) Sediment and Erosion Control Measures:

The BMP plan shall include a clear description of what sediment and erosion control measures will be used and when they will be implemented. (For example, perimeter controls for one (1) portion of the site will be installed after the necessary clearing and grubbing, but before clearing and grubbing the remaining portions of the site. Perimeter controls will be actively maintained until upward portions of the site are stabilized). The following control measures shall be used as a minimum.

- 1) Soil Stabilization Practices - Existing vegetation shall be preserved where possible. All disturbed areas of the site shall be stabilized. Stabilization shall begin within 14 days on areas of the site where construction activities have permanently or temporarily (for 21 days or more) ceased. When snow cover causes delays, stabilization shall begin as soon as possible. Stabilization practices include seeding, mulching, placing sod, planting trees or shrubs, and using geotextile fabrics and other appropriate measures.
- 2) Perimeter Structural Practices - Silt fences or other equivalent structural practices shall be used on all side and down slope borders of the site. Alternatively, a sediment basin shall be used that provides 3,600 cubic feet of storage capacity per disturbed acre drained. For common drainage locations that serve more than ten (10) disturbed acres at one time, a sediment basin must be used if possible. Structural practices include protecting drain inlets and outlets and using silt fences, earthen dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, reinforced soil retaining systems, gabions, sediment

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basis and other appropriate measures. The installation of these devices may be subject to Section 404 of the CWA.

- 3) Stormwater Management Devices - Management devices shall be installed during construction to control the pollutants in stormwater discharges that will occur after construction has been completed. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow so that the original physical and biological characteristics and functions of the receiving waters, such as the hydroperiod and hydrodynamics, are maintained and protected. When considering stormwater management devices, the goal should be 80% removal of Total Suspended Solids that exceed predevelopment levels. If this goal is not met, the permittee shall provide justification for refusing each device based on site conditions. Management devices include velocity dissipation devices, stormwater retention and detention basins, wet ponds, vegetated swales and natural depressions used for flow reduction, runoff infiltration devices, sequential systems that combine several devices and other appropriate measures. The installation of these devices may be subject to Section 404 of the CWA. The permittee is not responsible for the maintenance of these devices once discharges associated with construction activity have been eliminated.

c) Other Control Measures:

No solid materials, including building materials, shall be discharged to waters of the Commonwealth, except as authorized by a Section 404 permit.

Off-site vehicle sediment tracking and dust generation shall be minimized.

Waste disposal methods and sanitary sewer or septic systems shall comply with applicable state or local regulations.

d) Other State or Local Plans:

The BMP plan shall include any requirements specified in sediment and erosion control plans, stormwater management plans or permits that have been approved by other state or local officials. Upon submittal of the NOI, other requirements for surface water protection are incorporated by reference into and are enforceable under this permit (even if they are not specifically included in the BMP plan required by this permit). This provision does not apply to master or comprehensive

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plans, on-enforceable guidelines or technical guidance documents that are not identified in a specific plan or permit issued for the construction site by state or local officials.

e) Maintenance:

The BMP plan shall include a clear description of the maintenance procedures necessary to keep the control measures in good and effective operating condition.

f) Inspections:

Qualified personnel shall inspect all stormwater control measures, discharge locations, vehicle exits, disturbed areas of the construction site and material storage areas at least once every seven (7) days (and within 24 hours of the end of a storm, that is 0.5 inches or greater) and areas that have been temporarily or finally stabilized at least once a month. Revisions to the BMP plan based on the results of the inspection shall be implemented within seven (7) days. Control measures shall be inspected to ensure correct operation. Accessible discharge locations shall be inspected to ensure that velocity dissipation devices are effective in preventing significant impacts to receiving waters. Vehicle exits shall be inspected for evidence of, or the potential for, off-site sediment tracking. Disturbed areas and material storage areas that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the date of the inspection, major observations relating to the implementation of the BMP plan, and any corrective actions taken shall be made and kept as part of the BMP plan for at least three (3) years after the date of inspection, or until one (1) year after coverage under this permit ends. The report shall be signed in accordance with Part II of this permit.

g) Non-Stormwater Discharges:

The BMP plan shall identify and ensure the implementation of appropriate pollution prevention measures for any non-stormwater component of discharges as listed in. PART III C, except for flows from fire fighting activities.

h) Contractors and Subcontractors:

The BMP plan shall clearly state the contractor or subcontractors that will implement each control measure identified in the BMP plan, All contractors and subcontractors identified in the BMP plan must sign a copy of the certification statement below in accordance

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with PART II of this permit before conducting any professional service at the site:

"I certify under penalty' of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges associated with industrial activity from the construction site identified as part of this certification."

The certification must include the name and title of the person providing the signature, the name, address, and telephone number of the contracted firm, the address, or other identifying description of the site and the date the certification is made. All certification statements must be included in the BMP plan.

- i) All EPSC measures necessary shall be shown on the plan by location and referred to by a legend for all phases of construction. Depending upon the complexity of the project, the drafting of intermediate plans may be required for the close of winter season. Multiple EPSC plan sheets may be necessary to best convey requirements for each phase.

Modifications to the plan shall be modified by the permittee when there is a change in design, construction operation, or maintenance of the site, which has a significant effect on the potential for the discharge of pollutants to waters of the Commonwealth and shall implement the changes within seven (7) days processed and accepted or denied in the same manner as the review and issuance of the original permit application and may be authorized by Warren Countys Office of Stormwater Management by written authorization to the permittee, and shall include:

- 1) Major amendments of the EPSC plan shall require an engineer's signature and shall be submitted to Warren Countys Office of Stormwater Management for acceptance prior to completion.
  - 2) Field modifications of a minor nature may require an engineer's signature and shall be noted and dated on the EPSC record drawings and available for review and acceptance by Warren Countys Office of Stormwater Management within 14 calendar days after changes have been made in the field.
- j) If seeding or other vegetative erosion prevention methods are used, vegetation shall become established within three weeks. If a satisfactory stand of vegetation is not established within this time frame, Warren Countys Office of Stormwater Management may require the site to be reseeded or a non-vegetative option employed.

k) Construction site access requirements designed to minimize the deposit of sediment or other materials on public streets and rights of way may include:

- 1) Continuous access via a stabilized rock entrance, see City of Bowling Green Stormwater Manual for details.
- 2) A tire wash rack may also be required by Warren Countys Office of Stormwater Management.
- 3) Other methods with documented evidence of success may be submitted for review and approval prior to installation.

E. Inspection.

1. Warren Countys Office of Stormwater Management or its designated agent(s) may make inspections as deemed necessary to ensure the EPSC measures are being properly implemented and maintained during construction. Responsibility for inspections on a regular basis shall be per III.d.1.F of this ordinance. If minimum requirements for the EPSC are not met, the permittee shall be notified and enforcement actions shall be taken.
2. Warren Countys Office of Stormwater Management or its designated agent(s) may enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports required by this subsection.

**IV. PENALTIES.**

- A. Enforcement proceedings shall be initiated by the issuance of a notice of violation or a citation by a Warren County Stormwater Management official or Warren County building inspector. The notice of violation or citation shall be delivered to the violator at his last known address as it appears from the current property tax assessment roll. Such notice of violation or citation shall be deemed properly served if given by certified mail, return receipt requested, by personal delivery or by leaving the notice at the persons usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Service by certified mail shall be presumed to have been served on the third day following mailing. A copy shall also be posted in a conspicuous place in or about the structure or premises affected by such notice of violation or citation.

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- B. Warren County may also take immediate action to remedy a violation, including the issuance of a stop work order if construction under an active building permit is not in compliance with the requirements of this Ordinance. Nothing in this Ordinance shall prohibit Warren County from correcting the violation through self-help or taking immediate action to remedy a violation when there is reason to believe that the violation presents a serious threat to the public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible. Warren County may file liens on the property to recover its costs of labor and material, civil fines and other expenses. The lien shall take precedence over all other subsequent liens except state, county, and school boards taxes, and may be enforced by judicial proceedings.
- C. Upon receipt of a citation, the violator shall respond to the citation with seven (7) days by either paying the civil fine, or requesting in writing a hearing before the Code Enforcement Board to contest the citation. If the violator responds by paying the civil fine, the violator shall still be required to remedy the violation. If the violator fails to remedy the violation or to request a hearing within the designated time, the code official is authorized to issue another citation and to remedy the violation.
- D. If a citation for a violation of this Ordinance is not contested by the person charged with the violation, the maximum penalties shall apply; however, the Board may waive any or all of a penalty of an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with this Ordinance. The penalties listed are for each day a violation continues, beginning on the first day after the ending date of the corrective period. A second offense is an offense that occurs within five (5) years of the prior offense. All other violations are those, which occur within five (5) years of two (2) or more prior offenses:

<u>1<sup>st</sup> Offense</u>	<u>2<sup>nd</sup> Offense</u>	<u>All Others</u>
\$100.00	\$500.00	\$1000.00

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