

**SUMMARY OF ORDINANCE 017-227  
SHEPHERDSVILLE, KENTUCKY**

**AN ORDINANCE AMENDING SECTION 13 OF THE SHEPHERDSVILLE  
STORMWATER QUALITY MANAGEMENT ORDINANCE, ORDINANCE 012-100, TO  
STATE THAT, TO HAVE AN APPEAL PURSUANT TO SAID ORDINANCE  
CONSIDERED, A WRITTEN REQUEST SHALL BE FILED WITH THE CITY OF  
SHEPHERDSVILLE.**

Be it ordained by the City Council of the City of Shepherdsville, Bullitt County, Kentucky, as follows:

SECTION ONE: Amends Section 13 of Shepherdsville Ordinance 012-100, changing subsection 13.5.1 to state that "In order to have an appeal considered, the applicant shall submit a written request within 15 calendar days of the decision made by the City Representative to the City of Shepherdsville.

SECTION TWO: Provides that the Ordinance becomes effective upon publication.

SECTION THREE: Provides that if any section, clause, line, paragraph, or part of the Ordinance is held unconstitutional or invalid for any reason it will not affect the remainder.

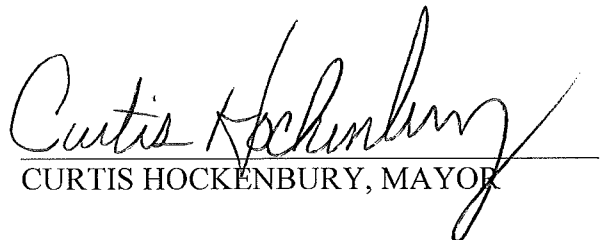
The first reading was at a regular meeting of the City Council of the City of Shepherdsville, Bullitt County, Kentucky, on the 27<sup>th</sup> day of March 2017. Given second reading, voted upon, and passed at a regular meeting of the City Council of the City of Shepherdsville, Bullitt County, Kentucky, on the 10<sup>th</sup> day of April 2017.

Vote for: 6;

Votes Against: 0;

Abstentions: 0.

Donna Burke	x
Lisa Carter	x
Stacey Cline	x
Bonnie Enlow	x
Mike Hibbard Sr.	x
Gloria Taft	x

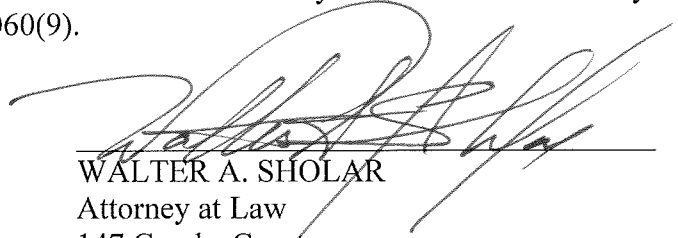
  
CURTIS HOCKENBURY, MAYOR

ATTEST:

  
TAMMY RICHMOND, CITY CLERK

CERTIFICATION

I, the undersigned, prepared and hereby certify this Ordinance Summary is an accurate Summary of Ordinance 017-227, pursuant to KRS 83A.060(9).

A large, stylized handwritten signature in black ink, appearing to read 'Walter A. Sholar', is written over a horizontal line.

WALTER A. SHOLAR

Attorney at Law

147 Combs Court

P.O. Box 6539

Shepherdsville, KY 40165

*Attorney for City of Shepherdsville*

**ORDINANCE NO. 017-227**

**AN ORDINANCE AMENDING SECTION 13 OF THE SHEPHERDSVILLE STORMWATER QUALITY MANAGEMENT ORDINANCE, ORDINANCE 012-100, TO STATE THAT, TO HAVE AN APPEAL PURSUANT TO SAID ORDINANCE CONSIDERED, A WRITTEN REQUEST SHALL BE FILED WITH THE CITY OF SHEPHERDSVILLE.**

**WHEREAS**, the City of Shepherdsville, County of Bullitt, Kentucky, has determined that Ordinance 012-100, also known as the Stormwater Quality Management Ordinance, contains a clerical or typographical error in Section 13, and that such error should be corrected,

**BE IT ORDAINED BY THE CITY OF SHEPHERDSVILLE, COUNTY OF BULLITT, KENTUCKY, AS FOLLOWS:**

**SECTION ONE:**

Section 13 of Shepherdsville Ordinance 012-100 is amended as follows:

**SECTION 13 – ENFORCEMENT, PENALTIES AND APPEALS**

- 13.1 It will be the responsibility of the Permittee to ensure compliance with this ordinance and implementation of the SWQMP Permit and Long-Term Operation and Maintenance Agreement. However, all responsible persons, regardless of ownership, must comply with the requirements of this ordinance and may be held accountable to the enforcement provisions herein.
- 13.2 Disconnection of Illicit Discharges
- 13.2.1 The Person responsible for any connection in violation of Section 5 of this ordinance, with regard to illicit discharges, shall immediately cause the illegal connection to be disconnected and redirected, if necessary, to the appropriate sanitary sewer system upon approval by the operating body of said sanitary sewer system and the Kentucky Division of Water.
- 13.3 Liability of Expenses Incurred
- 13.3.1 Any Person responsible for illicit discharges or noncompliance with BMPs at industrial and/or construction sites, and who fails to correct any prohibited condition or discontinue any prohibited activity at the order of the City, shall be liable to the City for expenses incurred in abating pollution. This may include expenses incurred in testing, measuring, sampling, collecting, removing, treating, and disposing of the polluting materials and preventing further noncompliance and/or illicit discharges.
- 13.4 Enforcement
- 13.4.1 The City shall institute appropriate actions or proceedings by law or equity for the enforcement of this ordinance within the areas of jurisdiction previously described. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation, including application for injunctive relief.
- 13.4.2 Any of the enforcement remedies and penalties, provided in this ordinance are available to be applied independently or in a sequence deemed necessary, shall be available to the City in response to violations of this ordinance. If the Person, property or facility has or is required to have a storm water discharge permit from the KDOW, the City may alert the appropriate State authorities of the violation.

### 13.4.3 Notice of Deficiency (NOD)

- 13.4.3.1 In instances when the City, based on observations or investigations, has reasonable cause to believe that a deficiency of this ordinance has occurred, the City is authorized to notify the Permittee in writing of the following items:
  - 13.4.3.1.1 Date and location of site observation(s) or investigation(s).
  - 13.4.3.1.2 An itemized list of any deficiencies or failures.
  - 13.4.3.1.3 A deadline in which the deficiencies are to be eliminated.
  - 13.4.3.1.4 The written Notice of Deficiency shall be hand delivered and/or sent by certified mail to the Permittee.
- 13.4.3.2 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 the responsibility of the Permittee to document that the deadline has not been met and request an extension to be evaluated by the City on a case by case basis.
- 13.4.4 Permit Denial: At the discretion of the City Representative or designated agent, it may withhold or delay any permit application, inspection requests, appeals, or other plan approvals from person(s) that have unresolved enforcement matters.
- 13.4.5 Notice of Violation (NOV) – Whenever the City or its designated representative finds that any Person owning or occupying a premise has violated or is violating this ordinance or order issued hereunder, the enforcement official may serve, by personal service, or by registered or certified mail, upon said Person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, must be submitted to the City or its designated representative. Submission of this plan shall in no way relieve liabilities for violations occurring before or after receipt of the NOV.
- 13.4.6 Stop Work Order
  - 13.4.6.1 In the event compliance cannot be achieved within the terms of a Notice of Deficiency, Notice of Violation, Permit Suspension or Permit Revocation, the City may proceed with a Stop Work Order. In the event the City Representative 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.
  - 13.4.6.2 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.
  - 13.4.6.3 The written Stop Work Order shall be sent by certified mail to the Permittee.
  - 13.4.6.4 The written Stop Work Order shall specify deficiencies and violations that must be corrected prior to a City inspection for consideration of removing the Stop Work Order.
  - 13.4.6.5 The Permittee shall notify the City 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 City to perform a compliance inspection.

- 13.4.6.6 When a Stop Work Order is removed, the City shall provide written notice to the Permittee.
- 13.4.7 Permit Suspension or Revocation
  - 13.4.7.1 In the event compliance cannot be achieved within the terms of a Notice of Deficiency and/or Notice of Violation, the City may proceed with permit suspension or revocation.
  - 13.4.7.2 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.
  - 13.4.7.3 The written Permit Suspension or Revocation shall be hand delivered and/or sent by certified mail to the Permittee.
  - 13.4.7.4 A Permit Suspension requires that the Permittee submit a revised portion of SWQMP as indicated by the City for review and acceptance by the City of the specific issue of contention. When a Permit Suspension is removed, the City shall provide written notice to the Permittee.
  - 13.4.7.5 When a Permit is revoked, the Permittee must reapply for a permit through the process of requesting a new Permit.
  - 13.4.7.6 A Permit Revocation requires that the Permittee resubmit a SWQMP for a full review and acceptance by the City Representative.
- 13.4.8 Compliance order – If a Person violates the provisions of this ordinance, the City or its designated representative, may give notice to the Owner or to any Person in responsible charge of the subject property ordering that unlawful conditions existing thereupon be abated within a schedule defined from the date of such notice.
  - 13.4.8.1 The enforcement official shall have the authority to establish elements of a compliance SWQMP and require the owner implement such a plan as may be reasonably necessary to fulfill the purposes of this chapter. The enforcement official may establish the requirements of BMPs.
  - 13.4.8.2 The notice and order may be given, provided that if in the opinion of the City or its designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then the City or its designated representative shall, with or without notice, proceed to abate the same, and the cost thereof shall be charged against the property. The City, as described further in this subsection, may recover the cost of such actions from the property owner.
- 13.4.9 Fines – A Person that has been found to have been in violation of any provision of this ordinance, may be assessed a civil penalty not to exceed the amount presented in this subsection.
  - 13.4.9.1 The penalty shall increase by twenty-five percent (25%) of the previous penalty amount for every subsequent, but separate offense made by the same Person. The penalty shall be in addition to other enforcement actions of this section.
  - 13.4.9.2 The penalty may be assessed for each day, beyond schedules applied in compliance orders or other schedules issued to the property owner or other Person responsible, for unauthorized activity defined in this section.

- 13.4.9.3 In determining the amount of the penalty a penalty schedule may be developed by the City Representative with confirmation by resolution of the City Council that shall consider the following:
- 13.4.9.3.1 The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
  - 13.4.9.3.2 The duration and gravity of the violation;
  - 13.4.9.3.3 The effect on ground or surface water quality;
  - 13.4.9.3.4 The cost of rectifying the damage;
  - 13.4.9.3.5 The amount of money saved by noncompliance;
  - 13.4.9.3.6 Whether the violation was committed willfully or intentionally;
  - 13.4.9.3.7 The cumulative effect of other enforcement actions applied for the same offense;
  - 13.4.9.3.8 The prior record of the violator in complying or failing to comply with the storm water quality management program; and
  - 13.4.9.3.9 The costs of enforcement to the City.
- 13.4.9.4 The maximum fines will be determined by the type of offense. This indicates the maximum that may be imposed for a first offense and does not reflect the increases described above for repeat offenses.
- 13.4.9.4.1 Development without or inconsistent with permit – up to \$7,500. To engage in any development, use, construction, remodeling or other activity of any nature in any way without all required permits inconsistent with any approved plan, permit, certificate or other form of authorization granted for such activity.
  - 13.4.9.4.2 Violation by act or omission – up to \$5,000. To violate, by act or omission, any term, variance, modification, condition or qualification placed by the City or its designated representative upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.
  - 13.4.9.4.3 Illicit Discharge – up to \$5,000. Any Person who is found to have improperly disposed of any substance defined as an illicit discharge, not an allowable discharge or causes The City to be in noncompliance with any applicable environmental permit.
  - 13.4.9.4.4 Household Products – up to \$500. Any Person who is found to have improperly disposed of any substance not included in Section 5.2 that was purchased over-the-counter for household use, in quantities considered normal for household purposes, which upon discharge to the MS4 or drainage network would have an adverse impact on water quality or cause the City to be in noncompliance with any applicable environmental permit.

13.4.9.5 In the event there are penalties assessed by the State against the City caused by a Person, said Person shall be assessed the equivalent amount of civil penalty. This shall include, but is not limited to, penalties for improper disposal or illegal dumping, or illicit connection into the MS4.

13.4.10 Administrative Fee – Any Person who undertakes any development activity requiring a storm water management plan hereunder without first submitting the plan for review and approval shall pay to the City, in addition to any permit or inspection fee, an administrative fee which reflects the actual cost of the corrective action.

13.4.11 Order to clean and abate/restore – Any violator may be required to clean and/or restore land to its condition prior to the violation.

13.4.12 Cost Recovery - If corrective action is not taken in the time specified the City may take the corrective action. The cost of the corrective action abatement and/or restoration shall be borne by the property owner. If the invoice is not paid within ninety (90) calendar days, the enforcement official shall have the authority to place a lien upon and against the property. Alternatively, if the invoice is not satisfied within ninety (90) calendar days, the enforcement official is authorized to take all legal measures available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property.

13.4.13 Injunctions and/or proceedings at law or in equity

13.4.13.1 Any violation of this ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.

13.4.13.2 The City shall pursue, through a court of component jurisdiction, any penalties that are not paid in full.

13.4.14 Fee or utility credit revocation or adjustment – This enforcement tool is intended to be available or used if there are, at any time, provisions for a property stormwater utility user fee funding mechanism managed by The City. This enforcement tool permits that credits (reductions), adjustments (increases) or other measures to modify fees or utility charges may be revoked or added, in full or in part, if any provisions of this ordinance are violated. The City Representative will develop and periodically revise an adjustment / credit schedule for adoption by resolution of the City Council.

13.4.15 Civil Actions – In addition to any other remedies provided in this ordinance, any violation of this ordinance may be enforced by civil action brought by the City's attorney. Monies recovered under this subsection shall be paid to the City to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance and the storm water quality program. In any such action, the City may seek, as appropriate, any or all of the following remedies:

13.4.15.1 A temporary and/or permanent injunction;

13.4.15.2 Assessment of the violator for the costs of any investigation, inspection or monitoring survey which lead to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

13.4.15.3 Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;

13.4.15.4 Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

13.4.16 Emergency Orders and Abatements - The enforcement official may order the abatement of any discharge from any source to the storm water conveyance system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, or welfare of the environment or a violation of a KPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare of the environment or a violation of a KPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of this subsection.

13.4.17 Violations deemed a Public Nuisance - In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by State and local law.

13.4.18 Remedies Not Exclusive - The remedies listed in this ordinance are not exclusive of any remedies available under any applicable Federal, State or local law and the City may seek cumulative remedies.

### 13.5 Appeals

13.5.1 In order to have an appeal considered, the applicant shall submit a written request within 15 calendar days of the decision made by the City Representative to the City of Shepherdsville.

13.5.2 A hearing date shall be set within 30 calendar days from receipt of the appeal.

13.5.3 A written, final decision shall be rendered no more than five business days after the hearing in writing.

### 13.6 Notice

13.6.1 Notice shall be delivered to the last known address of the property owner on record at the Property Valuation Administrator's Office. Notice shall be deemed served by certified mail, return receipt requested.

## **SECTION TWO:**

This Ordinance shall become effective upon publication.

## **SECTION THREE:**

Should any section, clause, line, paragraph, or part of this Ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this Ordinance.

Given first reading at a regular meeting of the City Council of the City of Shepherdsville, Bullitt County, Kentucky, on the 27<sup>th</sup> day of March 2017. Given second reading, voted upon and passed at the



regular meeting of the City Council of the City of Shepherdsville, Bullitt County, Kentucky, on the 10<sup>th</sup> day of April 2017.

Votes for: 6;

Votes Against: 0;

Abstentions: 0.

Donna Burke	x
Lisa Carter	x
Stacey Cline	x
Bonnie Enlow	x
Mike Hibbard Sr.	x
Gloria Taft	x

  
MAYOR CURTIS HOCKENBURY

ATTEST:

  
CITY CLERK TAMMY RICHMOND