

DRAFT STORMWATER ORDINANCE June 4, 2012

Sec. 26-352. Sec. 26-350 - Adoption of findings of fact.

The Board of Commissioners of the City of Owensboro, Kentucky, hereby adopts, affirms, and incorporates by reference as if fully set forth herein, as its "Findings of Fact," the recitals set forth immediately hereinabove.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-351. – Purpose and Scope

The City of Owensboro establishes this ordinance in order to establish a set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff in all public and private developments for the purpose of protecting local water resources from degradation and to protect and maintain the native vegetation in riparian stream and wetland areas. This ordinance seeks to meet that purpose through the following objectives:

1. To protect the general health, safety, and welfare of the citizens, property owners, and businesses in the City of Owensboro;
2. To protect and enhance the municipal separate storm sewer system (MS4), community waters and waters of the Commonwealth by inhibiting the deterioration of water resources resulting from development;
3. To maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding; and
4. To provide long-term responsibility for and maintenance of stormwater BMPS.

Sec. 26-353. Sec 26-352- Definitions.

The following words, terms, and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates otherwise.

Applicant shall mean a property owner or agent of a property owner who has filed an application for a stormwater management permit.

Best Management Practices (BMPs) shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the Commonwealth. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Buffer A vegetated area, including trees, shrubs and herbaceous vegetation, which exists or is established to protect a stream system, lake, reservoir or coastal estuarine area. Alteration of this natural area is strictly limited.

City of Owensboro shall mean the municipal agency designated to enforce this ordinance. Agencies with enforcement may include public works, engineering department, code enforcement, or Owensboro Municipal Utility.

CSS shall mean the combined sewer system, or the sewer system that carries a mixture of stormwater and sanitary sewage during and immediately after rain events.

Dedication shall mean the deliberate appropriation of property by its owner for general public use.

Detention shall mean the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Developer shall mean any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in the development or re-development of property.

Development shall mean 1) The improvement of property for any purpose involving building; 2) Subdivision, or the division of a tract or parcel of land in to 2 or more parcels; 3) the combination of any two or more lots, tracts, or parcels of property for any purpose; 4) the preparation of land for any of the above purposes.

Drainage Easement shall mean a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Erosion Prevention and Sediment Control (EPSC) shall mean the prevention of soil erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

Fee in Lieu shall mean a payment of money in place of meeting all or part of the stormwater performance standards required by this ordinance.

High quality waters or HQW shall mean those “waters of the Commonwealth” that have been categorized by the Kentucky Division of Water as high quality pursuant to the requirements of 401 KAR 10:030, Section 1(3).

Hotspot shall mean an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Illicit connections shall mean any of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge shall mean the act of depositing pollutants into the MS4 and/or the CSS.

Impervious Cover shall mean those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Infiltration shall mean the process of percolating stormwater into the subsoil.

KEPSC shall mean the Kentucky Erosion Prevention and Sediment Control Program, which is a group consisting of the MS4 communities throughout the Commonwealth of Kentucky, created to establish equity throughout the state in the training and qualification of inspectors and plan preparers.

KPDES shall mean the Kentucky Pollutant Discharge Elimination System.

Land Disturbance Activity shall mean any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Landowner shall mean the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Maintenance Agreement shall mean a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

MCM shall mean a minimum control measure, which is the least action required to obtain the goals as set forth in the KPDES permit.

MS4 shall mean the municipal separate storm sewer system, or the conveyance system that carries only stormwater, and not sanitary sewage.

NOD shall mean a notice of deficiency, which will be defined as the written notice given to a person or entity by the city upon the first violation of this article. The violator of this article shall be given a set time period to make corrective actions to repair the system.

NOI shall mean the notice of intent of a construction project, as defined in the KPDES permit.

Nonpoint Source Pollution shall mean pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NOT shall mean the notice of termination of a construction project, as defined in the KPDES permit.

NOV shall mean a notice of violation, which will be defined as the subsequent written notices, after the NOD given to a person or entity by the city after repeated violations of this article have occurred. The violator of this article shall be given a reasonable time period to make corrective actions to repair the system prior to stop work orders, fines and/or mandated incarceration.

Off-Site Facility shall mean a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-Site Facility shall mean a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Person shall mean any natural person, or any firm, proprietorship, association, corporation, or other public or private organization.

Pollutants shall mean and include paint, oil, or any petroleum-based substances, toxic chemicals, or hazardous materials and substances, solid or human waste, untreated sewage, or any substance, the exposure to which is deemed harmful to humans, animals, or the environment under federal or state law.

Private Development/Redevelopment shall mean developments that are not the responsibility of the state or local municipality to provide maintenance on including storm sewers, stormwater facilities, and roads.

Private storm sewer drainage system shall mean and include any manhole, drainage inlet, catch basin, ditch, creek, stream, water course, drainage conduit, sewer, pond, lake, drainage way, retention basin, or topographical configuration which acts to channel the course of stormwater flow across privately owned property; or any combination of the above, or all other natural or man-made outlets which empty into any of the above which carry storm and surface water and drainage but does not fall within a dedicated and/or platted right-of-way, drainage easement or utility easement. These systems are not to be maintained by the city.

Public Development/Redevelopment shall mean developments that are the responsibility of the state or local municipality to provide maintenance on including storm sewers, stormwater facilities, and roads.

Public storm sewer drainage system shall mean and include any approved and dedicated manhole, drainage inlet, public right-of-way, including curb and gutter, catch basin, ditch, creek, stream, water course, drainage conduit, sewer, pond, lake, drainage easement, retention basin, or topographical configuration which acts to channel the course of stormwater flow across publicly or privately owned property; or any combination of the above, or all other approved and dedicated natural or man-made outlets which empty into any of the above drainage system which carry storm, surface water and drainage which fall within a dedicated right-to-way, drainage easement, or utility easement. These systems are to be maintained by the city.

Qualified inspector shall mean an individual who has successfully completed the KEPSC qualified inspector training program and has scored a passing grade on the exam; or has obtained a similar qualification from a similar accredited program on the state or national level. Other professional registrations or licenses shall not be substituted for this qualification.

Redevelopment shall mean any construction, alteration or improvement involving land disturbance performed in areas where existing land use is high density commercial, industrial, institutional or multi-family residential. Sites in which land has been cleared and laid fallow for over 3 years shall not be considered redevelopment and are subject to new development standards.

Runoff shall mean rainfall, snowmelt, or irrigation water flowing over the ground surface.

Sediment shall mean soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

Stop work order shall mean a written notice given to any violator of this article requiring the violator to immediately cease and desist any and all activity on the site the violation occurred, other than any work required to correct and repair the damaged system. No other work can be performed on the site until the stop work order is rescinded.

Stormwater Management shall mean the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater shall mean stormwater run-off, snow melt run-off, and surface run-off and drainage.

Stormwater Pollution Prevention Plan (SWPPP) shall mean a site-specific document required for submission of the KPDES Notice of Intent (NOI) and this Ordinance. The SWPPP is utilized during construction and for post-construction conditions to identify potential sources of pollution, describe practices to reduce pollutants in stormwater discharges, and identify implementation procedures to maintain compliance with the current general permit.

Stormwater Treatment Practices (STPs) shall mean measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Water Pollution shall mean the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes.

Yard waste shall mean and include grass clippings, leaves, limbs, plants, bushes, flowers or shrubs.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-353. – Permit Procedures and Requirements

Any land owner or operator desiring a permit for land disturbance activity shall submit to the City of Owensboro a completed Cut and Fill Permit Application. Permit submittal requirements and details of the Review and Approval process are provided in the OMPC Public Improvements Specifications Chapter 14.

Sec. 26-354. - MCM # 3—Illicit discharge detection and elimination.

(a) It shall be unlawful for any person to do, or permit, authorize, allow or direct another person to do, or fail to do when required, any of the following:

(1) Deposit any concrete, steel, pollutants, building materials, or yard waste of any kind in the guttered curb of any street or alley located within public right-of-way that drains into the MS4 or CSS.

(2) Deposit any solid waste, debris, yard waste, pollutants, waste water (sewage), concrete, building materials, tires, appliances, animal carcasses, or any other substance, material or obstruction of any kind in an open ditch, sewer, or stormwater inlet and catch basin, manhole, that is part of or drains into the MS4 or CSS.

(3) Connect to the public storm sewer system with any illicit connection.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-355. - MCM # 4—Construction site stormwater runoff control.

(a) It shall be unlawful for any person (owner/contractor/developer) to do, or permit, authorize, allow or direct another person to do, or fail to do when required, any of the following:

(1) Store any building material, construction equipment, and/or equipment in any proposed or platted public right-of-way.

(2) Construct on any lot in the city prior to obtaining a cut and fill permit. In the review of the cut and fill permit, the city engineer, or his designee, shall determine if a NOI/SWPPP is required by the owner/contractor/developer. If required, the NOI shall be submitted to the state division of water (DOW), and a copy of the NOI/SWPPP shall be delivered to the city engineer's office prior to the start of construction. The amount of time between the submittal of the NOI to the DOW and the allowable start of construction shall be as determined in the current KPDES permit. The erosion control procedures employed in the field shall be those necessary to prevent pollution as specified in the current KPDES permit and the state erosion prevention and sediment control field guide and the state best management practices (BMPs) for controlling erosion, sediment, and pollutant runoff from construction sites, and shall be maintained and updated as needed. The SWPPP shall be updated as often as necessary in order to accurately portray the erosion control systems in the field at all times. A copy of the NOI/SWPPP shall be kept on the job site and shall be made available to the city engineer's staff at all times. The NOT shall be submitted to the DOW upon completion of the construction project and final stabilization of the soil has taken place and is functional based on an on-site project closeout meeting with the city engineer's staff. A copy of the NOT shall also be submitted to the city engineer's office.

(3) If the NOI/SWPPP/NOT is deemed required by the city engineer, it shall be unlawful to operate a construction site without employing a qualified inspector to inspect the entire site and maintain all

inspection records as required by the current KPDES permit. All inspection reports shall be kept on site and shall be made available to the city engineer's representative at all times.

(4) If any construction does not require the NOI/SWPPP/NOT, it shall be unlawful to fail to maintain all erosion control devices as per the public improvement specifications. These erosion control devices shall include, but are not limited to rock runouts, sediment transport control devices, and all other best management practices as appropriate for the site conditions.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-356. - MCM # 5—Post construction stormwater management in new development, redevelopment, and existing systems.

(a) Applicability

This Section shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Owensboro under the specifications of this ordinance and the OMPC Public Improvement Specifications. This Section also applies to land development activities that are smaller than one (1) acre if such activities are part of a larger common plan of development.

(b) Requirements for Stormwater Management Plan Approval

No application for development will be approved unless it includes a Stormwater Management Plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed in the post-developed condition in compliance with the established water quality standard. This plan must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices.

The Stormwater Management Plan(s) must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the current requirements of the OMPC Public Improvement Specifications and Subdivision Regulations for Owensboro/Daviess County, as applicable. No Cut and Fill Permit shall be issued until a satisfactory final Stormwater Management Plan, or a waiver thereof, has been reviewed and approved by the City of Owensboro after determining that the plan or waiver is consistent with the requirements of this Ordinance and the OMPC Public Improvement Specifications.

(c) Maintenance Agreements

All stormwater treatment practices shall have an enforceable Operation and Maintenance Agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured and recorded into the land record prior to issuance of any permits for land disturbance activities.

The owner of the property on which the private storm sewer system, which includes but is not limited to, the conveyance system, detention/retention basins, and water quality BMPs, is located, shall, at the written request of the city engineer, employ a licensed professional engineer to certify that the private storm sewer system is being maintained at the level of service for which it was originally designed. If a determination is made that the property owner is not maintaining the private system at or above the level of service indicated in the original design, a notice of deficiency shall be issued and the standard escalated process of enforcement initiated. It shall be unlawful for any person to refuse to maintain any part of a private storm sewer system that has been approved by the city engineer as part of any development or site plan. The system shall be maintained at all times to the level of service it was designed for.

(d) Utilization of BMP Resources

The City of Owensboro has furnished specifications and standards for the proper implementation of the requirements for this ordinance in the form of the OMPC Public Improvement Specifications, Chapter 14. This Chapter includes a list of acceptable stormwater treatment practices, including the specific selection and design criteria, and operation and maintenance requirements for each stormwater practice. Stormwater treatment practices that are designed and constructed in accordance with these selection, design, and sizing criteria will be presumed to meet the minimum water quality performance standards. Alternative practices may be proposed and submitted for review, but must be approved by the City. Additional resources include EPAs National Menu of Stormwater Best Management Practices (<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/>).

~~(a)~~ **(e)** *Depositing of material in public and/or private systems.* It shall be unlawful for any person to do, or permit, authorize or direct another person to do, or fail to do when required, any of the following:

(1) Erect, construct, deposit, or plant, any building, outbuilding, shed, fence, playground equipment, concrete, landscape berm, trees, bushes, shrubs, flowers, rocks, dirt, or any other substance or structure that covers, alters, obstructs, impairs or encroaches on a public stormwater drainage system.

(2) Cover, alter, excavate, fill, obstruct, encroach on or deposit any concrete, steel, pollutants, building materials, yard waste, or construct ramps of any kind in the guttered curb of any street or alley located within public right-of-way.

(3) Cover, alter, excavate, fill, divert, obstruct, impair, encroach on, or deposit any solid waste, debris, yard waste, pollutants, waste water (sewage), concrete, building materials, tires, appliances, animal carcasses, or any other substance, material or obstruction of any kind in an open ditch, sewer, or stormwater inlet and catch basin, manhole, right-of-way curb and gutter, or over, under, or across any public storm sewer system.

~~(b)~~ **(f)** *Grading/regrading private property.* It shall be unlawful for any person to do, or permit, authorize or direct another person to grade or regrade any private property in such manner as to obstruct, divert or impede the natural flow of surface stormwater across said person's property or adjoining properties.

~~(e)~~ **(g)** *Construction of private storm sewer systems.* All private storm sewer systems shall be in place, functioning, and certified by a licensed professional engineer prior to the occupation of any property improvements by the owner. It shall be unlawful for any person to refuse to construct any part of a private storm sewer system that has not been approved in advance by the city engineer on any development or site plan.

(d) *Maintenance of private storm sewer systems:* The owner of the property on which the private storm sewer system, which includes but is not limited to, the conveyance system, detention/retention basins, and water quality units, is located, shall, at the written request of the city engineer, employ a licensed professional engineer to certify that the private storm sewer system is being maintained at the level of service for which it was originally designed. If a determination is made that the property owner is not maintaining the private system at or above the level of service indicated in the original design, a notice of deficiency shall be issued and the standard escalated process of enforcement initiated. It shall be unlawful for any person to refuse to maintain any part of a private storm sewer system that has been approved by the city engineer as part of any development or site plan. The system shall be maintained at all times to the level of service it was designed for. ~~(Moved to (c) Maintenance Agreements)~~

Sec. 26-357. - Enforcement.

(a) *Public nuisances.* The acts, omissions and conditions prohibited in sections [26-354—26-356] of this article are hereby declared to be public nuisances that are inimical to the health, safety and welfare of the citizens of Owensboro.

(b) *Responsibility of property owner to remove or abate public nuisance.* The owner(s) of property shall be responsible for the removal or abatement, at the property owner's sole expense, of any obstruction, impediment, or encroachment under, over, or across any public stormwater drainage system on the owner's property, that is prohibited in sections [26-354—26-356] above and in existence at the time of the adoption of this article. It shall be the duty of the city engineer, as soon as the engineering department ascertains the existence of an unlawful obstruction or encroachment on any public stormwater drainage system, to forthwith notify in person, or in writing by certified mail, return receipt requested as stated below, the record owner of the property on which the public stormwater drainage system is located and/or the holder of the NOI, to remove or abate the unlawful condition, obstruction or encroachment within the time specified in the written notice, except in the case of an emergency approved and declared by the city manager, in which case the notice given shall be that notice which is reasonable and necessary under the circumstances. Failure of the owner of the property to actually receive the notice required herein shall in no way invalidate the provisions of this article or affect the liability of such owner for the cost of removing or abating the public nuisance found to exist on the owner's property.

(c) *City may abate nuisance; notice of abatement and assessment; lien.* If the property owner fails to remove or abate the nuisance in the manner and according to the specifications directed by the city engineer, within the time permitted therefore, the city may proceed to remove or abate the public nuisance. A record of the entire cost associated therewith, including labor and materials, shall be transmitted to the city engineer who shall, upon approval thereof, assess the cost of the removal or abatement of the public nuisance against the owner(s) of the property improved thereby, by sending the property owner a written "notice of abatement and assessment" directing said property owner(s) to reimburse the city in full for the cost of abatement, within thirty (30) days of receipt thereof. If the property owner or owners fail to comply with the "notice of abatement and assessment" and do not indemnify the city for the cost of removing or abating the public nuisance within the prescribed time period, the city shall have a lien against the property improved thereby for the reasonable value of labor and materials utilized to abate the public nuisance. The lien shall be as follows:

(1) The city shall have a lien against any property or properties finally determined by the city engineer to be in violation of this article to secure the payment and recovery of the reasonable value of labor and materials used to abate the violation, including fines, charges, costs, penalties, and/or fees, including administrative fees. The lien shall be superior to and have priority over, all other subsequent liens on the property except state, county, school board, city taxes and nuisance abatement liens lawfully imposed under KRS 72.720.

(2) The lien shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at the rate of twelve (12) percent per annum thereafter until paid.

(3) In addition to the remedy prescribed in subsection (a), the person found to have committed the violation shall be personally liable for the amount of all fines, charges, costs, penalties, and/or fees, including administrative fees assessed for the violation and for all charges and fees incurred by the city in connection with the enforcement of this article. The city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

(4) Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of deficiency, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the requirements listed in the notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice of violation issued by the city engineer and shall furnish to the city engineer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the necessary corrections and repairs required by such notice of violation.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-358. - Notification.

All notification shall be served in person to the owner(s) of the property according to the records in the office of the property valuation administrator, or in writing by certified mail, return receipt requested.

(a) Notice of deficiency (NOD). The city engineer's office shall have authority to inspect any site that it deems to be in violation of this article. If any site violates any portion of this article, a written NOD shall be delivered to the violator. The violator shall be given seven (7) calendar days, or as directed by the city engineer or his designee, to correct the deficiency per the details as specified in the NOD.

(b) Notice of violation level I (NOV I). The city engineer's office shall issue a NOV I to either the holder of the NOI or the owner(s) of any site that has been previously cited, does not comply with the terms of the NOD within the time period specified or violates the provisions of this article to an extent the public health and safety is at risk. The violator shall be given three (3) calendar days, or as directed by the city engineer or his designee, to correct the deficiency per the details as specified in the NOV I.

(c) Notice of violation level II (NOV II)—Stop work order. The city engineer's office shall issue a NOV II to either the holder of the NOI or the owner(s) of any site that has been previously cited, does not comply with the terms of the NOV I within the time period specified, or violates the provisions of this article to an extent the public health and safety is at risk. The violator shall be given a stop work order. At this point, the violator shall not work on any item on the site other than to take actions necessary to correct the violation. The violator shall be given seven (7) calendar days, or as directed by the city engineer or his designee, to correct the deficiency per the details as specified in the NOV II. If the corrective actions are taken, then the stop work order shall be rescinded, and work can continue on the site.

(d) Notice of violation level III (NOV III). The city engineer's office shall issue a NOV III to either the holder of the NOI or the owner(s) of any site that has been previously cited, does not comply with the terms of the NOV II within the time period specified, or violates the provisions of this article to an extent the public health and safety is at risk. The violator shall be penalized as specified in [section 26-359](#) below.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-359. - Penalties—Non-exclusive remedies.

(a) Criminal penalty. The owner or holder of any property found to be in violation of any section of this article and upon issuance and receipt of the NOV III, shall be guilty of a class A misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for a term not to exceed twelve (12) months, or both. Each day (twenty-four-hour period) on which a violation occurs or continues shall constitute a separate offense under this article.

(b) Civil penalty. As an alternative to, or in conjunction with the penalty set forth herein, any person found to be in violation of this article and upon receipt of the NOV III, may also be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00), payable to the city, within twenty (20) days of the issuance of the citation. Civil penalties not paid within the time prescribed herein may be recovered by the city in a civil action, in the same manner provided for the collection of a civil debt.

(c) Legal and equitable remedies. In addition to the penalties prescribed herein, the city may institute appropriate actions or proceedings at law or equity, including mandatory injunctive relief, to enforce the provisions of this article and/or to correct violations thereof. The conviction and punishment of any person hereunder shall not relieve said person of the responsibility to abate or correct prohibited nuisances, encroachments or conditions, or to remove prohibited obstructions, structures, impediments, improvements, or any other material or object from any public storm sewer system, nor prevent the enforcement, correction or removal thereof.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-360. - Severability.

The provisions of this article are declared to be severable. If any section, sentence, clause, or phrase of the ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this article, which shall remain in effect; it being legislatively intended that this article shall remain in effect, notwithstanding the validity or invalidity of any part thereof.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-361. - Conflict.

Any and all other ordinances, municipal orders, resolutions, policies, or sections thereof dealing with stormwater best management practices, in conflict with the provisions of this article, are to the extent of such conflict, hereby repealed.

(Ord. No. 33-2008, § 1, 10-7-2008)

Sec. 26-362. - Liability

Any person who takes responsibility for any land development shall ensure that soil erosion, sedimentation, increased pollutant loads and changes in water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. The requirements of this ordinance are minimum standards and a person's compliance with the same shall not relieve such person from the duty of enacting all measures necessary to minimize pollution of receiving waters.

By approving a plan under this ordinance the City of Owensboro does not accept responsibility for the design, installation and operation and maintenance of stormwater BMPs.