

CHAPTER 92: NUISANCES

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GENERAL PROVISIONS**§ 92.001 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLIANCE. Stoves, refrigerators, freezers, washing machines, dryers, dishwashers, or parts thereof.

CODE OFFICIAL. The Director of the Elizabethtown Department of Planning and Development or his/her designee or the successor thereto.

DEBRIS. Ruins from construction, including, but not limited to, barrels, metals, metal furniture and appliances, wood, dirt in piles, rock, pieces of concrete, glass, brick, building materials, and mineral waste.

DEPARTMENT. The Department of Planning and Development for the city.

DISREPAIR. Dangerously rusted, wrecked, or without all properly inflated tires, windshields, window glass, major chassis components, brake-lights, or without any other vehicle component required by law.

GARBAGE. Animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

INCINERATOR. Any incinerator shall be constructed to comply with the requirements of the Commonwealth of Kentucky Air Pollution Requirements and shall be approved by the Kentucky Fire Marshal or a Deputy of said Fire Marshal or the City Fire Chief.

MOTOR VEHICLES. Every device, including major parts thereof, in, on, or by which any person or property is or may be transported or drawn on a public highway, except devices moved by human or animal power, devices used exclusively on stationary rails or tracks and devices designed to be pulled, drawn, or towed by a motor vehicle.

PERSON. Any individual, firm, corporation, partnership, or other legal designation, including associations, boards and other groups.

PUBLIC WAY. Any and all entrances, streets, or thoroughfares leading from a public highway or street to a business where the public is generally invited, is not prohibited from coming thereon and where vehicular or other traffic customarily takes place.

RUBBISH. Combustible and noncombustible waste materials, except garbage, and the term, shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.
(Ord. 37, passed 11-4-91)

ANIMALS, FOWL AND REPTILES

§ 92.010 DECLARATION OF NUISANCE.

Violation of this subchapter shall be deemed a public nuisance.
(Ord. 37, passed 11-4-91)

§ 92.011 KEEPING OF ANIMAL, FOWL OR REPTILE WHICH BECOMES A NUISANCE PROHIBITED.

It shall be unlawful for any person to own, keep, harbor, or possess any domestic or other animal of any nature, any fowl or reptile which becomes a public nuisance.
(Ord. 37, passed 11-4-91) Penalty, see § 10.99

Cross-reference:

Animals, see Ch. 90

§ 92.012 CERTAIN VIOLATIONS CONCERNING ANIMALS, FOWL AND REPTILES.

The following shall be deemed a violation of this subchapter:

(A) Any dog, cat or other animal, fowl or reptile, running at large, without a license required by state law.

(B) Any dog, cat or other animal, fowl or reptile which has not received a rabies or other inoculation sufficient to prevent the dog, cat or other animal, fowl or reptile from contacting or spreading hydrophobia or other infectious disease.

(C) Any dog, cat, animal, fowl or reptile which damages or destroys any public or private, personal or real property.

(D) Any dog, cat, animal, fowl or reptile which barks, howls, whines, meows, screeches, hisses, or makes any other unreasonable noise which becomes a disturbance to neighbors of said person.
(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.013 SLAUGHTERING PROHIBITED.

Conducting or maintaining any slaughter house or other premises or area for the slaughtering of animals, fowl, or reptiles, or to render the byproducts of same shall be a violation.
(Ord. 37, passed 11-4-91) Penalty, see § 10.99

GARBAGE, DEBRIS AND RUBBISH**§ 92.025 DECLARATION OF NUISANCE.**

Violation of this subchapter shall be deemed a public nuisance.
(Ord. 37, passed 11-4-91)

§ 92.026 VIOLATIONS CONCERNING GARBAGE, DEBRIS AND RUBBISH.

The following shall be deemed a violation of this subchapter:

(A) The placing or permitting to remain anywhere in the city any garbage or other material subject to decay for more than 96 consecutive hours, except in a tightly covered metal or plastic container or as part of a compost operation.

(B) Causing or permitting to accumulate any trash, ashes or dust, or any material that can be blown away by the wind or other climatic disturbances other than in a covered container.

(C) Depositing or permitting to fall from any vehicle any garbage, rubbish, debris, on any public street or highway in the city.

(D) The hauling of garbage in any type vehicle other than a packer-type garbage truck approved by the Code Official or Hardin County Solid Waste Officer.

(E) The disposal of garbage, debris, or rubbish, by the dumping of same on any premises in the city, with or without the consent of the owner or possessor of the premises, or the permitting by the owner or possessor of any premises in the city to dump or permit the dumping of garbage, debris and rubbish on their property. The provisions of this division apply to all garbage, debris or rubbish, except leaves or other appropriate material disposed of in accordance with accepted practices for composting.

(F) Failure to dispose of all garbage, debris, and rubbish at least one time per week, except for materials in an acceptable compost operation as stated elsewhere in this chapter.

(G) Failure to dispose of any dead animals, fowl, and reptiles within six hours after discovery of same by the owner or possessor of the premises.

(H) Failure to dispose of all garbage, debris and rubbish by any of the following methods:

(1) Pickup and collection by sanitation companies, who possess a valid business license;

(2) Dumping in an approved sanitary landfill;

(3) Collection by the city, this method shall apply only to the collection of certain rubbish materials deemed to be offered as a public service by the city;

(4) Composting; or

(5) Burning as hereinafter set out.

(I) *Burning.*

(1) It shall be a nuisance to burn garbage anywhere in the city.

(2) It shall be a nuisance to burn debris or rubbish anywhere in the city, except in an approved incinerator.

(3) The burning of wood, tree branches, yard trimmings, leaves and weeds shall be permitted with the following conditions:

(a) The location must be approved by the Fire Chief or his/her appointee and a permit issued, if required.

(b) The fire shall not be closer than 50 feet from any structure and shall be monitored by an adult with adequate extinguishing agent at hand.

(3) The burning materials shall be completely extinguished prior to abandonment.

(D) Fires set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires will be allowed provided that prior approval is given by the Fire Chief or his/her designee in each instance.

(E) The Fire Chief or his/her designee may prohibit any and all burning when atmospheric conditions or local circumstances make fires hazardous or which are or could be offensive or objectionable due to smoke or odor emissions. The Fire Chief or his/her designee shall order the

extinguishment by the permit holder or the Fire Department of any fire which creates or adds to a hazardous or objectionable situation.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

Cross-reference:

Police and Fire Departments, see Ch. 37,38

ABANDONED; INOPERABLE VEHICLES AND MACHINERY

§ 92.035 DECLARATION OF NUISANCE.

Violation of this subchapter shall be deemed a public nuisance.

(Ord. 37, passed 11-4-91)

§ 92.036 PARKING INOPERABLE VEHICLE WHERE IT CAN BE VIEWED FROM PUBLIC HIGHWAY, OTHER CITY STREETS.

No motor vehicle shall be parked on any property in the city which can be viewed from a public highway or other city street, which vehicle remains for the period of one week in the same relative location or which for mechanical or other reasons cannot be moved or which will not operate properly or which is unsightly.

(Ord. 37, passed 11-4-91) (Ord. 31-2005, passed 10-17-05) Penalty, see § 10.99

§ 92.037 DISMANTLING OR OVERHAULING VEHICLE ON PRIVATE PROPERTY PROHIBITED; EXCEPTIONS.

No vehicle shall be at any time in a state of major disassembly or disrepair, nor shall it be in the process of being stripped or dismantled, nor shall it undergo major overhaul, including body work, on any private property within the city. This section shall not apply to a motor vehicle on the premises of business enterprise involved solely in the repair, renovation, storage or servicing of motor vehicles, a vehicle in an approved storage place or depository maintained in a lawful place and manner by the city, or a motor vehicle inside a fully enclosed structure or similarly enclosed area designed and approved for such purposes.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.038 PARKING OF VEHICLE IN FRONT YARD PROHIBITED; EXCEPTIONS.

The parking, locating, or storing of a motor vehicle located on private property in a front yard, other than inside a fully-enclosed structure or similarly-enclosed area designed and approved for such purposes, or in a safe manner on a paved or graveled area shall be a violation of this subchapter.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.039 STORING ANY APPLIANCE OUTSIDE OF ANY BUILDING OR WHERE ACCESSIBLE TO CHILDREN PROHIBITED.

The keeping, placing, or storage outside of any building or dwelling of any appliance or the keeping, placing, or storage in any other place accessible to children of any appliance shall be a violation of this subchapter. (Ord. 37, passed 11-4-91) Penalty, see § 10.99

GRASS AND WEEDS**§ 92.050 DECLARATION OF NUISANCE.**

Violation of this subchapter shall be deemed a public nuisance. (Ord. 37, passed 11-4-91)

§ 92.051 GRASS, WEEDS AND VEGETATION TO BE TRIMMED REGULARLY; MAXIMUM HEIGHT.

(A) All grass, weeds, and other vegetation shall be cut and trimmed on a regular basis by the owner and/or occupant of all property to a height of not more than ten inches at all times, so long as the property is less than two acres in total area and so long as the property is not agricultural or woodlands.

(B) For property of at least two acres in size, or property that is primarily used for an agricultural use, then the grass, weeds and vegetation thereon shall be mowed, cut or trimmed to a height commensurate with the customary practice for agricultural use, but at no time shall the height of any non-harvested crop exceed 36 inches.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.052 EXEMPTION FOR WOODLANDS AND TREES.

In the event property is predominantly woodlands and trees and the same dominates the land and no crop or agricultural use is made of same, then this subchapter shall not apply.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

EROSION CONTROL**§ 92.065 DECLARATION OF NUISANCE.**

Violation of this subchapter shall be deemed a public nuisance. (Ord. 37, passed 11-4-91)

§ 92.066 REMOVAL OF VEGETATION; REPLACEMENT.

Any person removing vegetation from any real estate in the city shall reseed, resod or revegetate the same within six months from the date of the removal, commensurate with the surrounding real estate, unless a building permit is received from the appropriate city department. This subchapter shall not apply to the customary use of real estate for agricultural and/or horticultural use, nor to an area of less than 2,500 square feet. (Ord. 37, passed 11-4-91) Penalty, see § 10.99

SEWAGE DISCHARGE**§ 92.075 DECLARATION OF NUISANCE.**

Violation of this subchapter shall be deemed a public nuisance. (Ord. 37, passed 11-4-91)

§ 92.076 DISCHARGE TO CITY SEWAGE SYSTEM REQUIRED.

Each owner of property in the city having installed any bath, lavatory, toilet, kitchen or other sink, laundry device, washing machine or other water discharge or storage shall provide for the discharge of the sewage or drainage into the city sewage system where available and it shall be unlawful and a public nuisance to permit or cause to be permitted or discharged, sewage or drainage from any bath, lavatory, toilet, sink or other facility, device or machine or in any other receptacle, or to any storm drain or in any manner not provided for by law. (Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.077 DISCHARGE OF RUNOFF OR GROUNDWATER TO SANITARY PUBLIC SEWER PROHIBITED.

No person shall make connection of roof drains, exterior fountain drains, area-way drains, other sources of runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a sanitary public sewer.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

Cross-reference:

Water and sewers, see Title V.

MAINTENANCE OF PUBLIC WAYS**§ 92.090 DECLARATION OF NUISANCE.**

Violations of this subchapter shall be deemed a public nuisance. (Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.091 OWNER TO MAINTAIN PUBLIC WAY; KEEP COMPATIBLE WITH ADJACENT PAVEMENT.

The owner of any real estate used as a public way is hereby charged with the responsibility of maintaining the public way by periodically renewing, repaving or otherwise maintaining a smooth surface for motor vehicular and other traffic in such a way as to be maintained compatible with and as permanent as adjacent pavement and maintenance of public ways. The same shall be further maintained in a safe manner so as not to damage motor or other vehicles generally crossing the public way.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.092 OWNER TO KEEP PROPERTY CLEARED TO TRAVELED PORTION OF STREET.

All owners of any real estate shall be required to keep that portion of property located between the traveled portion of the city street and their property line free of garbage and refuse; and to keep the grass or weeds thereon mowed consistent with §§ 92.051 and 92.052 of this chapter.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.093 OBSTRUCTING FIRE HYDRANT PROHIBITED.

It shall be a violation for any person to in any way cause to be placed, planted or located any building, structure, shrubbery, tree, any other planted material, or any ornamental landscaping material, or to change the grade of the land, adjacent to or in the vicinity of any fire hydrant, so that the fire hydrant is obstructed from view or use or is rendered inoperable.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.094 OBSTRUCTING VIEW OF MOTORISTS PROHIBITED.

It shall be a violation for any person to in any way cause to be placed, planted or located any man-made material or shrubbery, tree, or any other planted material, or to change the grade of the land, within or adjacent to any street right-of-way or on any private property that obstructs the view of any motorist, at a street intersection, from being able to view oncoming traffic and operate a motor vehicle in a safe manner.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.095 OWNERS TO MAINTAIN DRAINAGEWAY ON PRIVATE PROPERTY; OBSTRUCTION OF DRAINAGEWAY PROHIBITED.

It shall be the responsibility of all persons owning property to maintain any drainageway on their private property in a manner that allows for the proper utilization of the drainageway. It shall be a violation for any person to in any way cause to be placed in or across any drainageway any obstruction, including grass clippings, tree limbs and debris of any kind whatsoever that alters, restricts or prohibits the drainageway from functioning in a proper manner, unless prior approval is given by the city as provided for by ordinance.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.096 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

It shall be a violation for any person to in any way cause to be placed across any sidewalk, street, street crossing, alley, public highway or railroad crossing any blockade or obstruction to remain thereon for a greater length of time than five minutes, unless prior approval is granted by the appropriate city department. This section shall not apply to the blocking or obstructing of any sidewalk, street, street crossing, alley, public highway or railroad crossing done by any public utility or other authorized person in an emergency situation or to repair a public utility service.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

§ 92.097 MAINTENANCE; REPAIR OF SIDEWALKS.

The owners of property abutting on sidewalks of the city are required, at their own expense, to repair or replace that part of any sidewalk adjoining or on their property, by filling and repairing any holes, uneven surfaces, and other defects, by using materials as nearly similar as possible to that of which the sidewalk is constructed.

(Ord. 37, passed 11-4-91) Penalty, see § 10.99

Cross-reference:

Streets and sidewalks, see Ch. 91

§ 92.098 INSPECTION AND NOTICE.

It shall be the duty of the director of the Department of Planning and Development, or any city employee designated by him, to ascertain the extent of holes, uneven surfaces, or other defects in the sidewalks in the city, and to notify the owners of the property directly adjacent to that part of the sidewalk which is found to be defective, to repair or replace the same at their own expense within a period of 30 days after receiving the notice.

(Ord. passed 12-16-68)

§ 92.099 FAILURE TO COMPLY IS A VIOLATION.

Any owner of property who shall fail to repair the sidewalk as set out above within 30 days after receiving notice, shall be guilty of a violation of this code for each day that the sidewalk remains unrepaired after the period fixed by the notice.

(Ord. passed 12-16-18)

§ 92.100 PERFORMANCE BY CITY.

The city may, at its option, after notifying the property owners to repair the sidewalk as set out above, enter upon the sidewalk and repair or replace it in the same manner as set out above, and shall bill the respective property owners for the cost of labor and materials for the repair of the sidewalk, and the city shall have a lien against the property for the payment of such costs. After expiration of 30 days after the work on the repairing of the sidewalk is performed by the city, the property owners shall be liable for a penalty of 3% per annum of the cost of the labor and materials, and the same shall be a lien against the property and shall run with the land until paid.

(Ord. passed 12-16-68)

ADMINISTRATION AND ENFORCEMENT**§ 92.110 DIRECTOR OF PLANNING AND DEVELOPMENT TO INVESTIGATE COMPLAINTS; NOTIFY OWNER OF PREMISES IN VIOLATION; EXCEPTION.**

(A) The Director of the Department of Planning and Development and his/her authorized designee shall administer and enforce this chapter.

(B) The Director shall investigate complaints of violation and report all findings and action in the official records of the Department. If the Director finds any of the provisions of this chapter are being violated, he/she shall notify, in writing, the owner or possessor of the premises of the violation. If the violation is not abated within the time prescribed by the notice, the Director shall then cause a citation to be issued through the District Court, including the County Attorney's Office. The citation shall, through the district court system of the state, cause a hearing to be scheduled.

(C) Complaints of violation of the provisions of this chapter governing animals, fowls, and reptiles shall be investigated by the City Police Department. The Police Department shall follow the same procedures for investigation and notice as prescribed for other violations under this chapter.

(Ord. 37, passed 11-4-91)

Cross-reference:

Police and Fire Departments, see Ch. 37,38

§ 92.111 ABATEMENT PROCEDURE.

(A) In the event that the District Court finds that a nuisance does exist, then the same may be abated by causing the removal, eradication, termination or possession, or other remedy to take place so the nuisance is abated promptly.

(B) In the event the nuisance is not abated, as ordered by the District Court, then the District Court may order the city or its Code Official to take the steps necessary to abate the nuisance and assess the cost of same against the violator, including any necessary attorney's fees, costs, or other penalties and the same may be then levied against the property and a lien for the necessary amounts to abate said nuisance shall then bear interest at the rate of 12% per annum and shall be filed in the office of the Clerk of Hardin County Court until the nuisance and fees, costs, and other amounts are fully paid.

(Ord. 37, passed 11-4-91)

§ 92.112 TERMINATION OF UTILITIES.

(A) The provisions of termination of utilities set out in division (B) below may be enforced by the District Court. The District Court may maintain control over a continuing nuisance.

(B) In the event a nuisance is found to exist against the owner, possessor or other violator, then the utilities of the owner or possessor of the property, may be terminated by court order.

(Ord. 37, passed 11-4-91)

Cross-reference:

Water and Sewer, see Ch. 50

§ 92.113 RECORDS OF COMPLAINTS, ACTIONS AND VIOLATIONS TO BE AVAILABLE TO THE PUBLIC.

The Director of the Department of Planning and Development shall make records of all official actions relating to the administration and enforcement of the provisions of this chapter available to the public, including but not limited to, written records of all complaints and actions taken with regard thereto, all violations discovered with actions taken thereto and the final disposition of such matters.

(Ord. 37, passed 11-4-91)

§ 92.114 APPEAL TO CODE ENFORCEMENT APPEALS BOARD.

Any decision of the Code Official of the city in the enforcement of the provisions of this chapter may be appealed to the Elizabethtown Code Enforcement Appeals Board by filing a written notice in the proper form with the Code Official at his/her office. The written appeal shall be filed within seven days of the decision, action or determination made by the Code Official from which the appeal is sought.

(Ord. 37, passed 11-4-91)

***PROHIBITING ILLICIT DISCHARGES AND ILLICIT CONNECTIONS
TO THE CITY'S STORMWATER SYSTEM***

§ 92.150 PURPOSE AND SCOPE

This Section is intended to protect the general health, safety and welfare of the citizens of the City of Elizabethtown by declaring illicit discharges into the storm sewer system to be nuisances, and more specifically;

To protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act by prohibiting non-stormwater discharges to the municipal separate storm sewer system (MS4), collectively called Stormwater conveyance system.

To prohibit illicit discharges and connections to the MS4.

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

(Ord. 21-2008, passed 12-22-08)

§ 92.151 DEFINITIONS

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

THE DEPARTMENT OF STORMWATER MANAGEMENT. The Enforcement Agency working through the Director of Stormwater Management and duly authorized staff, representatives, or designees.

HAZARDOUS MATERIALS. Any materials, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT DISCHARGE. Any direct or indirect non-stormwater substance or hazardous materials disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, intentionally or unintentionally, into the MS4 or any area that has been determined to drain directly or indirectly into the MS4, except as exempted in Section 92.153.

ILLICIT CONNECTION. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4. Included are 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 has been previously allowed, permitted or approved.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A conveyance, or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains designed or used for collecting or conveying Stormwater to the waters of the United States. Sanitary and combined sewers are not included in the definition of the municipal separate storm sewer system.

NON-STORMWATER DISCHARGE. Any discharge to the MS4, that is not composed solely of Stormwater except as permitted by Section 92.153.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. The area of land, site, grounds or property on which the illegal discharge emanates or the illicit connection exists.

(Ord. 21-2008, passed 12-22-08)

§ 92.152 GENERAL PROVISIONS.

Except as herein provided or exempted by the Director of Stormwater Management, this section shall apply to all non-stormwater discharges and connections to the MS4 owned and operated by the City of Elizabethtown.

The Director of Stormwater Management shall administer, implement, and enforce the provisions of this section.

This section shall be construed to insure consistency with requirements of the Clean Water Act, the City of Elizabethtown KPDES Phase 2 Program, and acts amendatory thereof or any other applicable regulations.

The standards and requirements set forth herein and promulgated pursuant to this section are minimum standards. This section does not intend nor imply that compliance by any person, company, developer, or any other entity will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into the MS4.

(Ord. 21-2008, passed 12-22-08)

§ 92.153 PROHIBITION OF DISCHARGES AND ILLICIT CONNECTIONS; EXCEPTIONS.

No person, company, developer or any other entity shall discharge or cause to be discharged into the MS4 any pollutants including but not limited to hazardous materials or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than Stormwater. The commencement, conduct or continuance of any illicit discharge is prohibited.

This section does not apply to following categories of non-stormwater discharges or flows, unless the Director of Stormwater Management and/or Enforcement Agency indentifies them as significant contributors of pollutants to it MS4: water line flushing, landscaping irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharge from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual non-polluting residential home and car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, firefighters activities and street wash water from municipal cleaning operations.

The prohibition of discharges or flows shall not apply to any non-stormwater discharges permitted under a NPDES permit, waiver, or waste discharges order issued to the discharger and administered by the Kentucky Division of Water under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition includes without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practice applicable at the time of connection.
(Ord. 21-2008, passed 12-22-08)

§ 92.154 ILLICIT DISCHARGES AND ILLICIT CONNECTIONS ARE DECLARED TO BE A PUBLIC NUISANCE.

Illicit discharges and illicit connections are declared to be a public nuisance, being a threat to the public health, safety and welfare. The City shall take all necessary steps to abate the nuisance, including all measures cited in section 92.157, Enforcement and Penalties, and/or any other action permitted by State and Federal law.
(Ord. 21-2008, passed 12-22-08)

§ 92.155 RULES AND REGULATIONS.

Compliance by Elimination of Illicit Discharge – The Director of Stormwater Management may require by written Notice of Violation that the person, property owner, occupant, tenant, lessor, lessee, or entity (hereinafter referred to as “party”) responsible for an illicit discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

The elimination of an illicit discharge within seven (7) days after receipt of Notice of Violation from the Enforcement Agency shall be considered compliance with the provisions of this section and no further action shall be taken.

Monitor and Analyze – The Director of Stormwater Management may require by written notice that any party engaged in any activity and/or owning or operating any property or facility which has been determined to contribute to stormwater pollution, illicit discharges, and/or non-stormwater discharges to the MS4 to undertake at said party's expense such monitoring and analyses and furnish such reports to the Director of Stormwater Management and/or Enforcement Agency as deemed necessary to determine compliance with this section.

Notification of Spills – Notwithstanding other requirements of local, state and federal law, as soon as any party responsible for a property, facility or operation, or responsible for emergency response for a property, facility, or operation, has information of any known or suspected release of pollutants or hazardous materials which are resulting or may result in illegal discharges to the MS4, said party shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said party shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials to the MS4, said party shall notify the Director of Stormwater Management and/or Enforcement Agency in person, by phone, or facsimile immediately, but no later than 2:00 p.m. of the next business day. Notification shall be confirmed by written notice addressed and mailed to the Director of Stormwater Management within three business days of the original notice.
(Ord. 21-2008, passed 12-22-08)

§ 92.156 INSPECTION, MONITORING AND REMEDIATION.

Right of Entry and Inspection – Whenever the Director of Stormwater Management has cause to believe that there exists, or potentially exists, any condition which constitutes a violation of this section, the Director of Stormwater Management shall be permitted to enter the believed violating premises served by the MS4 at all reasonable times to inspect the same. Refusal to allow entrance to the premises for inspection or monitoring shall constitute a violation for each day after the Notice of Violation that his refusal continues. If the Director of Stormwater Management has been refused access to any part of the premises from which Stormwater is discharged and is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section, or any order issued hereunder to protect the overall public health, safety and welfare of the community, the City may seek all appropriate remedies from any court of competent jurisdiction, including the issuance of a search warrant.

Urgency Abatement – The Director of Stormwater Management is authorized to require immediate abatement of any violation of this section that constitutes an immediate threat to the health, safety or well being of the public. If any such violation is not abated immediately as directed by the Director of Stormwater Management, the City is authorized to enter into private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City shall be fully reimbursed by the property owner and/or responsible part.

Sampling Devices and Testing – During any inspection as provided herein, the Director of Stormwater Management may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. The costs of all testing may be passed on to the party, owner or operator of the premises where the illicit discharge emanates
(Ord. 21-2008, passed 12-22-08)

§ 92.157 ENFORCEMENT AND PENALTIES.

Any of the following enforcement remedies and penalties, to be applied independently or in a sequence as deemed necessary, shall be available to the City in response to violations of this section.

Notice of Violation – Enforcement proceedings for this section shall be initiated by the issuance of a Notice of Violation (NOV) by the Director of Stormwater Management.

Failure to remedy the violation within seven (7) days of receipt of the Notice of Violation shall result in a citation for a civil offense. Each day such violation continues after receipt of a citation shall be considered a separate offense. The civil administrative fine for each citation (violation) of this section shall be not less than \$100 and not more than \$500. The civil fine shall be paid directly to the City of Elizabethtown. If the fine is not paid within thirty (30) days from the date of notification, then the City may recover said fine in a civil action in the court of proper jurisdiction. The party cited may appeal the citation and request a hearing before the Code Enforcement Board prescribed in Chapter 34 of the Elizabethtown Code of Ordinance.

The City may also obtain injunctions or abatement orders to insure compliance with this section or pursue administrative remedies.

Legal Proceedings, Notification of Kentucky Division of Water – The Director of Stormwater Management or designated agent may pursue appropriate legal proceedings for the enforcement of this section, and the City shall be entitled to recover its costs expended and reasonable attorney's fees in such proceedings. If a person, property, or facility has or is required to have a stormwater discharge permit from KYDOW, the City shall notify the appropriate State authorities of the violation.

Revocation of permit, improvement or development plans – Permits, improvement plans or development plan approvals may be revoked for any substantial departure from the approved plans thereby resulting in an illicit discharge as defined herein.

Stop Work Orders – For violations involving active construction sites, the Director of Stormwater Management may issue a Stop Work Order and require that all activities cease, except those actions that are necessary to eliminate the illicit discharge.

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

Suspension of MS4 access due to the detection of illicit discharge – Any entity discharging to the MS4 or any conveyance in violation of this section may have its MS4 access terminated in such termination would abate or reduce an illicit discharge. The City shall require the violator to disconnect access to the MS4 at their cost or take corrective action to eliminate the source of the illicit discharge. Reinstatement of MS4 access to premises terminated pursuant to this section without the prior approval of the City constitutes a violation.

Cost of abatement of a violation – Any person causing a violation of this section which requires the City to expend public funds for the response to the violation, its abatement or the cleanup or removal of any prohibited discharges, pollutants or hazardous materials shall be liable to the City for all recoverable fees and costs incurred by the City for such response, cleanup and removal. This shall include but not limited to personnel costs of any City Departments, replacement costs of supplies and equipment contaminated as a result of the discharge, proper disposal of contaminated materials, cleanup, evacuation and administrative and other expenses, including legal expenses, incurred in recovering such costs. Any such illegal discharges shall be considered a public health hazard and the City shall have a lien against the property for its recoverable costs if these costs are not paid within ninety (90) days of invoice.

(Ord. 21-2008, passed 12-22-08)

§ 92.158 ARTICLE SUPPLEMENTAL TO OTHER REGULATIONS.

The provisions of this section are supplemental and in addition to all other regulatory codes, statutes and ordinances heretofore enacted by the City, State or other legal entity or agency having jurisdiction.

The provisions of this section shall be deemed cumulative of the provisions and regulations contained in the Code of Ordinances of the City of Elizabethtown, Kentucky, save and except that, where the provisions of this section and the sections hereunder are in conflict with the provisions elsewhere in this Code, then the provisions contained herein shall prevail.

Any party who violates any provision of this section or any provision of any permit issued by the City of Elizabethtown may also be in violation of the Federal Clean Water Act and may be subject to the sanctions of that Act including civil and criminal penalties. Any enforcement action authorized under this section may also include written notice to the party of such potential liability.
(Ord. 21-2008, passed 12-22-08)

§ 92.159 SEVERABILITY.

If any provision, clause, sentence, or paragraph of this section or its application to any person of factual context shall be held invalid, that invalidity shall not affect the remaining provisions of this section, which may be given effect independent of the provision or application declared invalid.
(Ord. 21-2008, passed 12-22-08)

§ 92.99 PENALTY

Any violation of this ordinance is subject to the penalty of §10.99. The enforcing agency, department or individual may choose to seek enforcement through the Code Enforcement Board enacted on the 30th day of April, 2003, by Ordinance No. 09-2003.
(Ord. 13-2003, passed 06-16-2003)