

ORDINANCE NO. 2016-12

AN ORDINANCE SETTING OUT THE SPECIFICATIONS FOR DRAINAGE CONSTRUCTION IN MARSHALL COUNTY, KENTUCKY.

BE IT ORDAINED by the Fiscal Court of Marshall County:

Section 1: STANDARD SPECIFICATIONS FOR RIGHT-OF-WAY AND DRAINAGE CONSTRUCTION ADOPTED BY REFERENCE AND ANY SUBSEQUENT AMENDMENTS THERETO.

The Kentucky Transportation Cabinet Specifications for Drainage, and any subsequent amendments thereto, are adopted herein by reference as if fully set out herein and the same shall be and hereby are adopted as the minimum standards of construction for all right-of-way and drainage constructed in the county after the effective date of the ordinance.

Section 2: INSPECTION AND CERTIFICATION OF CONSTRUCTION.

That any person or entity undertaking to construct road, street, or storm sewer within the county shall apply to the County Road Supervisor or other county official as designated by the Fiscal Court for inspection and certification that such road, street, sidewalk, or storm sewer has met specifications as set forth in this ordinance. The County Road Supervisor shall prepare a written inspection report in duplicate showing date and time and by whom inspection was made, where tests were made, and whether the project meets specifications. If the project does not meet specifications, the person performing the inspection shall state in the written report the defects found and action required to meet specifications. The original of the inspection report shall be kept by the County Road Supervisor or other county official designated by the Fiscal Court.

Section 3: WATER FLOWING OVER COUNTY ROADS; UNAUTHORIZED CONNECTIONS PROHIBITED.

No entity or person shall construct a drain or drainage system of any type such that the water being drained flows onto or over a county road, nor shall any person make an unauthorized connection with a county sewer or storm sewer.

Section 4: CULVERT CONSTRUCTION.

This ordinance shall apply only when the County Road Department is performing normal road ditch maintenance or the property owner constructs a new driveway or entrance onto a county road. This ordinance does not apply to "road construction projects."

Section 5: AUTHORIZED OFFICIAL TO DETERMINE NEED FOR CULVERT.

The authorization official(s) that determines the need for a culvert shall be the County Road Supervisor or other county personnel appointed by the Judge Executive.

Section 6: PROPERTY OWNER RESPONSIBLE FOR COSTS OF CULVERT INSTALLATION; MAINTENANCE BY ROAD DEPARTMENT.

- (a) Whenever a property owner constructs a new driveway or entrance onto a county road or elects to install a new culvert for any other reason, the property owner shall be responsible for the cost of said culvert construction. The property owner may contract with a third party for the culvert construction so long as such culvert meets the specifications outlined herein. The County Road Supervisor or his designee may issue a written stop work order to non-compliant property owners and complete the project at the expense of the property owner. If the project is completed by the Fiscal Court due to non-compliance by the property owner, the Fiscal Court may bill the property owner for the costs and expenses, and if left unpaid may file a lien as authorized by law and seek recoupment by any legal or equitable means.
- (b) All culverts existing prior to this ordinance shall not be affected by this ordinance. When the County Road Department, or its agents, are performing normal ditch maintenance along a county road, and it is deemed necessary by the County Road Supervisor or other appropriate county personnel to install a new culvert, or to replace an existing culvert that does not meet county specifications with regard to type of material used in construction of said culvert, or sizes of said culvert, the owner of the property in question shall be notified in writing of the need to replace said culvert.
- (c) After the owner of said property requiring a culvert or culverts pays for the installation of said culvert or culverts, the County Road Department shall maintain the culvert.

Section 7: COUNTY ACTION IN THE EVENT OF A NATURAL DISASTER.

If, due to a natural disaster which results in declaration of a state or federal emergency affecting Marshall County and state or federal funds are made available for repair of roads or rights-of-way, the county may repair or replace culverts in its discretion as deemed necessary.

Section 8: BLOCKING COUNTY ROAD DITCH; CONSTRUCTION WITH UNAPPROVED MATERIALS.

If any contractor, property owner, or property owner's agent blocks a county road ditch with any type of material, or constructs a culvert with material that is not approved by the County Road Department, said contractor, property owner, or property owner's agent shall be liable for any damages caused to said road, plus the cost of returning said ditch to the original condition. This section shall not be deemed to preclude criminal prosecution if the facts so warrant.

Section 9: DRAINAGE REQUIREMENTS.

(A) Any entrance, whether in a rural or urban area, shall not obstruct or restrict the normal watercourses involved unless suitable provisions are made therefor. The County Road Supervisor or his designee shall be satisfied that the type, size, and installation of the drainage features proposed in the application are adequate for present and foreseeable future requirements with a reasonable life span. As to the type of drainage pipe material, the County Road Supervisor shall be guided by the Kentucky Transportation Cabinet Manual on Drainage.

(B) Requirements for drainage shall be as follows:

- (1) Necessary drainage structures for an entrance shall not be tied onto an existing highway drainage structure.
- (2) The size, length, and type of the entrance pipe shall be as required by the County Road Supervisor, but in no case shall a drainage pipe be less than 15 inches in diameter, nor less than 24 feet in length.
- (3) All entrance pipes, whether of corrugated metal, concrete, or bituminous coated corrugated metal shall meet any and all applicable specifications and requirements. Pipes shall be of sufficient length to prevent end damage. Sloped box inlet or outlet may be required by the County Road Supervisor.
- (4) (a) Where long lengths of pipe are used for driveway purposes, catch basins or clean-out boxes shall be installed every 50 feet.
(b) Special considerations may be given to placement of clean-out boxes at longer intervals for pipes with larger diameters. Boxes shall also be constructed at all angles in pipe alignment.
- (5) When necessary, gratings and catch basins must be installed to intercept and prevent water from flowing over sidewalks, roadways, or driveways.
- (6) Utilities shall not be placed in or through existing drainage conduits.
- (7) When a fill is to be placed against an existing roadway, the fill shall be constructed to intersect the outside shoulder edge so that it slopes away from the road on a slope to the ditch flow line or a depth of three feet. Furthermore, special drainage features as required by the County Road Supervisor shall be required of the property owner to adequately drain the road bed and shoulders. This refers to French drains or toe drains in the existing fill.

Section 10: PENALTY AND APPEAL.

(A) Any person who violates any provision of this ordinance for which no penalty is otherwise provided by applicable Kentucky law, shall be guilty of a violation and shall be fined not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

(B) Each day a violation exists shall constitute a separate offense.

(C) The County Road Supervisor or his designee shall determine if a violation exists and shall put the property owner on written notice and allow thirty (30) days for corrective action.

(D) If the violation remains unabated, the County Road Supervisor shall calculate the number of days and levy the appropriate fine, which shall immediately become a lien on the property. Property owners shall receive written notice of such levy.

(E) Parties aggrieved by the levy of a fine and/or lien shall have seven (7) days after

receiving such notice in which to appeal directly to the Nuisance Code Enforcement Board for relief and/or mediation. The appeal board shall conduct a hearing wherein the County Road Supervisor must establish the facts and legal grounds for the issuance of a levy. The property owner, or his or her designee, shall have the right to present evidence and testimony at the hearing. A ruling shall be issued within seven (7) days of the hearing. If the decision of the County Road Supervisor is upheld, the fine shall be calculated from the date of the first offense and shall continue to accrue throughout the appeal process.

This Ordinance shall become effective following publication on Oct. 11th, 2016.

1st Reading September 20, 2016.

Upon second reading of the Ordinance, it was moved by Commissioner Judge Neal and seconded by Commissioner Bowlin that the Ordinance be duly adopted.

Whereupon the vote was called, and on roll call, the vote stood:

Voting aye:

Judge Neal

Com. Bowlin

Voting no:

Com. Gold

Whereupon, Marshall County Judge/Executive Kevin Neal declared this ordinance adopted on the second reading, affixing his signature and the date thereto, and declared that the same be recorded.

MARSHALL COUNTY FISCAL COURT



Kevin Neal
Marshall County Judge/Executive

Attest:

Desiree Hermon

Clerk, Marshall County Fiscal Court