

COMMONWEALTH OF KENTUCKY
MCLEAN COUNTY FISCAL COURT
ORDINANCE NO. 20-540-1
SUMMARY OF AN ORDINANCE SETTING OUT SPECIFICATIONS
FOR DRAINAGE CONSTRUCTION IN MCLEAN COUNTY, KENTUCKY

The subject ordinance adopts the Kentucky Transportation Specifications for Drainage. It requires all property owners to apply to the County Road Supervisor whenever they undertake the construction of a road, street or storm sewer. It also prohibits any person or entity from constructing a drain or drainage system that causes water to flow over a county road.

The subject ordinance authorizes the County Road Supervisor to determine the need for a culvert for access to County roads to be installed at the expense of the property owner. Written notice of the determination of the need for a culvert and its approximate cost by the County Road Supervisor shall be given to the Property owner and the property owner shall have thirty (30) days to appeal directly to the McLean County Fiscal Court. The McLean County Fiscal Court then shall conduct a hearing wherein the Road Supervisor must establish the need for a culvert. In the event the McLean County Fiscal Court determines that the installation of the culvert is necessary, then in that event, the County shall install said culvert and the costs of the materials for installation shall become a lien on the property.

The subject ordinance also prohibits the blocking of ditches and imposes the liability for damage caused by said blockage and the cost of repairing the ditch drainage on the property owner.

The subject ordinance allows a lien to be levied on the property, however, any party aggrieved by the levy of a lien shall have 30 days after receiving notice of any violation to appeal directly to the McLean County Fiscal Court. The McLean County Fiscal Court must conduct a hearing wherein the Road Supervisor must establish facts and legal grounds for the issuance of a lien. The property owner shall have the right to present evidence and testimony at the hearing. A ruling shall be issued within 30 days of the hearing.

The undersigned, Donna Dant, certifies that she has prepared the above summary of an ordinance and said summary is a true and correct summary of Ordinance No. 20-540-1.

DONNA DANT

MCLEAN COUNTY ATTORNEY

This ordinance was adopted on 1st reading February 26, 2020, and on 2nd reading by a vote of ____ to ____ on March 24, 2020.

**MCLEAN COUNTY FISCAL COURT AMENDED ORDINANCE
NUMBER 20.540-1
AN AMENDED ORDINANCE RELATING TO THE SPECIFICATIONS
FOR DRAINAGE CONSTRUCTION IN MCLEAN COUNTY, KENTUCKY**

ORDINANCE NO. 20.540-1

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

BE IT ORDAINED by the Fiscal Court of McLean County:

**Section 1: STANDARD SPECIFICATIONS FOR RIGHT-OF-WAY AND DRAINAGE
CONSTRUCTION ADOPTED BY REFERENCE.**

The Kentucky Transportation Specifications for Drainage is 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 this subchapter. A current copy of said manual is attached hereto and incorporated herein as Exhibit "A."

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 subchapter. 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, thickness and type of paving material and whether the project meets specification. 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 bring the project up to the standards. The original of the inspection report shall be kept by the County Road Supervisor or other county official designated by the Fiscal Court. The copy of the inspection report shall be given to **the builder** and the Judge Executive.

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 or shall make an unauthorized connection with a county sewer or storm sewer.

Section 4: 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 5: 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 County Road Department shall construct the culvert and the expense of the materials shall be paid by the property owner; however, the County Road Supervisor shall give the property owner written notice of the approximate cost of installing the culvert. The property owner then shall have (30) days after receiving the notice to appeal directly to the McLean County Fiscal Court. If appealed, the McLean County Fiscal Court shall conduct a hearing wherein the County Road Supervisor must establish the facts making the cost and action necessary.
- (b.) When the County Road Department, or their 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 standards with regard to type of material used in construction of said culvert, or sizes of said culvert. The County Road Supervisor shall construct a compliant culvert at the expense of the property owner. However, the County Road Supervisor shall give the

property owner written notice of the intent to install or replace an existing culvert at the cost of installing the culvert. The property owner then shall have thirty (30) days after receiving the notice to appeal directly to the McLean County Fiscal Court and the McLean County Fiscal Court shall conduct a hearing wherein the County Road Supervisor must establish the facts making the action necessary.

~~c.) After the owner of said property requiring a culvert or culverts, the County Road Department shall maintain the culvert, including replacement, if necessary, unless damage is caused by the property owner's negligence.~~

Section 6: INSTALLATION BY COUNTY ROAD DEPARTMENT; COSTS TO BECOME A LIEN AGAINST PROPERTY.

If the property owner, after receipt of notice pursuant to Section 5(a) and 5(b) of this subchapter, refuses or for any reason, does not pay for the cost of installing said culvert, the County Road Department shall install said culvert or culverts and said cost/shall become a lien on the property, capable of being filed with the County Clerk's Office.

Section 7: 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 original condition.

Section 8: 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 therefore. 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 and have 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.

(a) Requirements for drainage shall be as follows:

(1) Necessary drainage structures for an entrance shall not be tied onto an existing highway drainage structure unless the necessary junction boxes, manholes, and catch basins are installed by permittee in accordance with county specifications.

(2) The size, length and type of the entrance pipe shall be as required by the County Road Supervisor, but in no case shall be less than 15 inches in diameter, and not less than 20 feet in length.

(3) All entrance pipes, whether of corrugated metal, concrete or bituminous coated corrugated metal shall meet appropriate department 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) Valley gutters constructed of concrete or bituminous material, which meet department standards, may be used in lieu of entrance pipe where the pipe cannot be placed.

(5)(a) Where long lengths of pipe are used, catch basins or clean out boxes shall be installed at approximate intervals in accordance with the policy.

(b) Special considerations maybe given to placement of clean-out boxes at longer intervals for pipe with larger diameters. Boxes shall also be constructed at all angles in pipe alignment.

(6) When necessary, gratings and catch basins must be employed to intercept and prevent water flowing from the driveway over the sidewalks or roadways.

(7) Utilities are not to be placed in or through existing drainage conduits.

(8) When a fill is to be placed against an existing roadway, the fill shall be constructed to intersect the outside shoulder edge and slope away from the road on a 6:1 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 applicant to adequately drain the road bed and shoulders. This refers to French drains or toe drains in the existing fill.

(9) Occasionally, under pavement drainage is provided by sand, crushed stone or other types of drains in front of pavement through the shoulder of the road. Requests to join the pavement at these existing drainage points must be accompanied by plans showing the methods proposed to extend these drains so that their original purpose will be continued. This provision is applicable to commercial and private entrances.

(10) Any proposal to alter or significantly increase a drainage area. runoff factors or change in any way a drainage structure must be accompanied by a complete drainage survey (upstream and downstream) based upon a 25-year

and 100-year storm with hydraulic analysis of all affected drainage structures in the area.

Section 9: PENALTY AND APPEAL.

(A) 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.

(B) Parties aggrieved by the levy lien shall have (30) thirty days after receiving such notice in which to appeal directly to the McLean County Fiscal Court must conduct a hearing wherein the Road Supervisor must establish the facts and legal grounds for the issuance of 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 thirty (30) days of the hearing.

This Ordinance shall become effective upon its passing and publication according to law.

Approved: Upon 1st Reading at Fiscal Court Regular Meeting held on September 9, 2020.

Approved: Upon 2nd Reading at Fiscal Court Regular Meeting held on September 22, 2020.

