NORTHERN KENTUCKY
REGIONAL STORM WATER
MANAGEMENT PROGRAM

OFF-SITE MITIGATION
AND
PAYMENT-IN-LIEU
POLICY

SANITATION DISTRICT NO. 1
1045 EATON DRIVE
FORT WRIGHT, KY 41017

OCTOBER 2011
DOCUMENT HISTORY

ORIGINAL:

APPROVED by the Board of Directors this 20\textsuperscript{th} day of September 2011.
OFF-SITE MITIGATION AND PAYMENT-IN-LIEU POLICY

A. Purpose

Sanitation District No. 1 (SD1) has developed a policy for providing off-site mitigation and payment-in-lieu for those development projects that cannot meet the post-construction requirements for water quality controls in the separate storm sewer system and volume reduction controls in the combined sewer system. It is SD1’s intent to ensure post-construction storm water management regulations are enforced to reduce the impact of development on the public drainage system and the environment. The off-site mitigation or payment-in-lieu option is available for the following situations:

i. Developer cannot meet the post-construction regulations due to site restrictions or unreasonable financial burden; or

ii. The developer identifies an off-site control that is more beneficial or effective than the site-level control that would be required by the post-construction storm water regulations.

These programs shall become effective October 1, 2011 to supplement the post-construction storm water management regulations for the combined and separate storm sewer systems.

B. Applicability

Development projects that cannot feasibly meet the post-construction storm water management regulations in the combined or separate storm sewer systems may be eligible for Off-Site Mitigation or Payment-in-Lieu fee. SD1’s revised Storm Water Rules and Regulations (August 2011) provide SD1 the authority to implement off-site mitigation and payment-in-lieu fee as an alternative to post-construction storm water control requirements on a case-by-case basis determined solely by SD1. Developers/Owners are only eligible for the payment-in-lieu if the developer/owner can prove that off-site mitigation is infeasible. To request approval for a proposed off-site mitigation project or payment-in-lieu alternative, the owner or designated representative must notify SD1 in writing and provide the following information:

i. Explanation of why post-construction storm water management standards may not be met onsite;

ii. Identification of the off-site mitigation project that will be completed in lieu of implementing post-construction controls onsite;

iii. If off-site mitigation is not feasible, a written explanation of measures taken to attempt to identify an off-site mitigation project; and

iv. Explanation of why off-site mitigation is not feasible.

If the project site discharges to a waterbody with a total maximum daily load (TMDL) allowance as defined and designated by the Kentucky Division of Water, the provisions of this policy may not be applicable. Project sites that discharge to waterbodies with a TMDL will be evaluated on a case-by-case basis. The owner or authorized representative must contact SD1 to determine if off-site mitigation and payment-in-lieu are appropriate alternatives.
C. Off-Site Mitigation

For projects applying for a Land Disturbance Permit beginning October 1, 2011, SD1 may allow for off-site mitigation for projects that cannot meet the requirements of the post-construction storm water control requirements for water quality in the separate storm sewer system or volume reduction in the combined sewer system areas, as determined solely by SD1. Off-site mitigation may be completed for all or only a portion of the amount of storm water required to be managed onsite. The following outlines the criteria for off-site mitigation:

i. **In the separate storm sewer system:**
   a. The owner or authorized representative must identify an off-site mitigation project of equal storm water benefit (based on requirements of post-construction water quality treatment standard) in the same sub-watershed as the project for which this regulation is impacting. Storm water benefit of an off-site mitigation project will be based upon land cover; off-site mitigation projects must address similar types of land cover as that of the development project. For example, an off-site mitigation project for one acre of impervious area must address the storm water runoff generated from at least one acre of impervious area off-site.

   b. If the owner or authorized representative and SD1 cannot agree upon a project within the same sub-watershed, SD1 may consider allowing off-site mitigation within the same watershed. Projects will be evaluated based upon impacts to the receiving waterbodies. The owner or authorized representative must demonstrate that the mitigation project provides equivalent water quality benefits and equally protects water quality of the receiving waters as would have been provided by the post-construction water quality treatment standard for the development project.

ii. **In the combined sewer system:**

   a. The owner or authorized representative must identify an off-site mitigation project of equal storm water benefit (based on requirements of the post-construction volume reduction standard) in the same combined sewer catchment as the project for which this regulation is impacting. Combined sewer catchments represent the delineated drainage boundary to a specific combined sewer overflow point. Storm water benefit of an off-site mitigation project will be based upon land cover; off-site mitigation projects must address similar types of land cover as that of the development project. For example, an off-site mitigation project for one acre of impervious area in the combined sewer catchment in which the development occurs must address the storm water runoff generated from at least one acre of impervious area off-site.

   b. If the owner or authorized representative and SD1 cannot agree upon a project within the same combined sewer catchment, SD1 may consider allowing off-site mitigation within the broader combined sewer system area. Projects will be evaluated based upon impacts to combined sewer overflow volume. The owner or authorized representative must demonstrate that the mitigation project provides equivalent combined sewer overflow volume reduction as would have been provided by the post-construction volume reduction standard for the development project at an overflow location that is not already within an acceptable level of control.
iii. Off-site mitigation projects must be explicitly approved by SD1 in writing based upon the criteria and policy developed by SD1.

D. Payment-in-Lieu

For projects applying for a Land Disturbance Permit beginning October 1, 2011, SD1 may allow a payment-in-lieu fee to be paid for projects that cannot meet the post-construction storm water control requirements for water quality in the separate storm sewer system or volume reduction in the combined sewer system areas. Payment-in-lieu may only be considered after off-site mitigation is determined to be infeasible at the sole discretion of SD1. SD1 will determine the appropriate payment-in-lieu fee for each project dependent upon the amount of storm water required to be managed by the development to meet requirements of the post-construction water quality or volume reduction regulations. Factors to be considered include SD1 program administration costs, project design and construction costs, land acquisition costs, and long-term maintenance costs. Money collected from the payment-in-lieu fee will be used for public storm water management improvement projects identified by SD1.