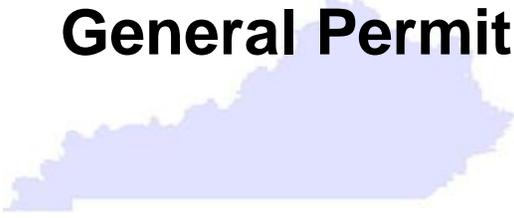


General Permit



NONSUBSTANTIAL IMPROVEMENT OF STRUCTURES ALONG OR ADJACENT TO A STREAM

Floodplain General Permit for Nonsubstantial Improvement of Structures

Permit Number: KY FPGP-NSUB

AI No.: 35050

Pursuant to Authority established in KRS Chapter 151,

Development activities that occur in a floodplain for the base flood event and that meet the eligibility requirements of this permit,

are authorized along or adjacent to a stream in areas located within the 120 counties of the Commonwealth of Kentucky,

in accordance with the requirements of 401 KAR 4:060, and other conditions set forth in this permit.

This permit shall become effective on 4/1/2023.

This permit and the authorization shall expire 3/31/2028.

3/27/2023

Date Signed

A handwritten signature in black ink, appearing to read 'Carey Johnson', written over a horizontal line.

Carey Johnson, Director

Division of Water

DEPARTMENT FOR ENVIRONMENTAL PROTECTION
Division of Water, 300 Sower Blvd, Frankfort, Kentucky 40601

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FLOODPLAIN GENERAL PERMIT FOR NONSUBSTANTIAL
IMPROVEMENT OF STRUCTURES

AI No. 35050

Page No. 1

1. PERMIT COVERAGE	2
2. EXCLUSIONS AND ELIGIBILITY.....	3
3. PERMIT REQUIREMENTS.....	4
4. OTHER CONDITIONS	5

SECTION 1

1. PERMIT COVERAGE

Coverage under this General Permit issued by the Kentucky Division of Water (the "Division"), allows development activities along or adjacent to a stream that meet the eligibility requirements established in this permit, and that do not increase the Base Flood Elevation in any community.

Development meeting the requirements of this General Permit shall have automatic coverage under this general permit without making application or submitting plans and specifications to the Division.

Proposed development with the potential to change the Base Flood Elevation, or which meets the definition of Substantial Damage Repair or Substantial Improvement of an existing structure, shall require an application for an Individual Floodplain Development Permit to Construct Along or Across a Stream pursuant to 401 KAR 4:060.

The property owner or entity employed to develop the property (the "Permittee"), and who is authorized for coverage under this General Permit by the Division, is exempt from public notice requirements as long as the development is conducted in accordance with the requirements of this General Permit.

This General Permit is issued pursuant to KRS 151.250 and 401 KAR 4:060 regarding stream obstruction only and does not constitute certification of any other aspect of proposed development. Ongoing development shall comply with the terms and conditions of this General Permit within 90 days of its effective date, and new development shall comply with the terms and conditions of this General Permit upon beginning eligible development activities.

Work performed by or for the Permittee that does not fully conform to the limitations set forth in this General Permit is subject to partial or total removal and enforcement actions pursuant to KRS 151.280 as directed by the Kentucky Department for Environmental Protection, and KRS 151.125 under the authority and powers of the Secretary.

The Permittee shall contact the Division of Water, Water Resources Branch, at (502) 564-3410 or at 401WQC@ky.gov to determine if a Water Quality Certification is required. If required, the Permittee shall obtain a Water Quality Certification from the Division before beginning development.

The Permittee shall contact the Division of Water, Surface Water Permit Branch at (502) 564-3410 or at SWPBsupport@ky.gov to determine if a Stormwater Construction Permit is required. If required, the Permittee shall obtain a Stormwater Construction Permit from the Division before beginning development.

The Permittee is liable for any damage resulting from the development, operation, or maintenance of the activities covered by this permit.

SECTION 2

2. EXCLUSIONS AND ELIGIBILITY

2.1. Exclusions

- 1) Development not meeting the eligibility requirements listed in Section 2.2 of this General Permit shall require an application for an Individual Floodplain Development Permit to Construct Along or Across a Stream to be submitted to the Division, pursuant to 401 KAR 4:060.
- 2) Development with the potential to affect the Base Flood Elevation in a community, or which meets the definition of Substantial Damage Repair or Substantial Improvement of an existing structure, shall require an application for an Individual Floodplain Development Permit to Construct Along or Across a Stream to be submitted to the Division, pursuant to 401 KAR 4:060.
- 3) Development in a stream or wetland that requires a General or Individual Water Quality Certification pursuant to 401 KAR 9:010 from the Division is not eligible for coverage under this General Permit.
- 4) Development of new or substantially improved residential, non-residential, or appurtenant structures located in the base floodplain shall not be eligible for, nor granted, coverage under this General Permit.
- 5) Development of dams or other water impounding structures, or construction that does or may endanger life or cause property damage, shall not be eligible for, nor granted, coverage under this General Permit.

2.2. Eligibility

The following activities are eligible for coverage under this General Permit:

- 1) Repair or Improvement of an existing structure that does not constitute a substantial improvement as defined in 401 KAR 4:060 Section 1;
- 2) The cost of repair or improvement of the structure shall be less than 50 percent of the structure value, excluding land value, prior to construction. The project costs shall include the cost of prevailing labor and any required demolition costs;
- 3) The structure valuation shall be determined by the local county Property Valuation Administrator or Certified Residential or General Real Property Appraiser;
- 4) If multiple repair or improvement projects are completed on an existing structure, the total costs of all repair or improvement projects during the calendar year from when the initial project started shall be used to demonstrate compliance with nonsubstantial improvement requirements.

SECTION 3

3. PERMIT REQUIREMENTS

- 1) The Permittee shall maintain access to a copy of this General Permit, an itemized cost of the planned repairs or improvements to the existing structure, and a copy of the property valuation meeting the requirements of Section 2.2.4) of this permit, at the development site.
- 2) Prior to beginning development, the Permittee shall obtain a local floodplain development permit if the county/city/community is an eligible or participating community in the National Flood Insurance Program. Upon completion of the development, the Permittee shall obtain final written approval from the local permitting agency confirming compliance with the requirements of the local floodplain ordinance.
- 3) This permit coverage is issued from the standpoint of stream obstruction only and does not constitute certification of any other aspect of the proposed construction. The applicant is liable for any damage resulting from the construction, operation, or maintenance of this project.
- 4) In order to reduce future flood damage to the existing structure, it is recommended that building utilities such as HVAC and electrical equipment be elevated above the base flood elevation. All electrical installations shall be in compliance with applicable building codes.
- 5) Due to the nature of the work involved in the proposed project, the Division of Water has waived the requirement that the submitted plans and specifications be drawn by an engineer licensed to practice as a professional engineer in the state of Kentucky under the provisions of the KRS Chapter 322.
- 6) Violations of the requirements of this General Permit are subject to enforcement action under KRS 151.182 and penalties under KRS 151.990.

SECTION 4

4. OTHER CONDITIONS

4.1. Schedule of Compliance

The Permittee shall be in compliance with the requirements of this General Permit within 90 days of its effective date through the completion of development. This General Permit does not require a submission of an application to the Division, and therefore General Permit requirements for ongoing nonsubstantial improvement of an existing structure shall be met from the time an eligible activity begins through the completion of development. Should the Division determine the Permittee failed to comply with the requirements of this General Permit, the coverage may be terminated, and the Permittee may be required to obtain an Individual Floodplain Development Permit to Construct Along or Across a Stream.

4.2. Other Permits

This General Permit has been issued under the provisions of, and administrative regulations promulgated pursuant to, KRS Chapter 151. Issuance of this General Permit does not relieve the Permittee from the responsibility of obtaining any other permits or licenses required by this Division and other state, federal, and local agencies.

4.3. Continuation of Expiring Permit

In the event this General Permit expires prior to reissuance by the Division, the conditions and requirements of this General Permit shall continue in effect until the Division reissues or revokes the permit. However, new or expanded nonsubstantial improvement or substantial improvement of an existing structure is not eligible for coverage under this General Permit while it is expired until the General Permit is reissued.

4.4. Application for Permit

The Permittee is not required to submit an application for coverage under this General Permit. All eligible development activities shall be granted automatic coverage.

4.5. Duty to Comply

The Permittee shall comply with the conditions of this General Permit. Violations of the requirements of this General Permit are subject to enforcement action as established in KRS 151.182, and penalties under KRS 151.990, or revocation of coverage under this General Permit.

4.6. Need to Halt or Reduce Activity Not a Defense

Any work performed by the Permittee that does not fully conform to the limitations established in this General Permit is subject to partial or total removal, and to enforcement actions as established in KRS 151.280 as directed by the Division. It shall not be a defense in an enforcement action for a Permittee to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this General Permit.

4.7. Duty to Mitigate

The Permittee shall take all reasonable steps to minimize or prevent any discharge or disposal in violation of this General Permit which has a reasonable likelihood of adversely affecting human health or the environment.

4.8. Change of Scope of Work

Notifying the Division of planned changes or anticipated noncompliance does not stay any condition of this General Permit.

4.9. Property Rights

The issuance of this General Permit by the Division does not convey any property rights or exclusive privilege of any kind.

4.10. Duty to Provide Information

The Permittee shall furnish to the Director of the Division of Water (the "Director"), within the requested time frame, any information which the Director may request to determine compliance with this General Permit.

4.11. Inspection and Entry

The Permittee shall allow the Director or an authorized representative (including an authorized contractor acting as a representative of the Director), upon presentation of credentials and other documents as may be required by law, to:

- 1) Enter upon the development area where an activity covered under this General Permit is located or conducted, or where records are kept, under the conditions of this General Permit;
- 2) Have access to and copy, at reasonable times, any records that are kept under the conditions of this General Permit;
- 3) Inspect at reasonable times any facilities, equipment practices, or operations regulated or required under this General Permit; and
- 4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by KRS Chapter 151, any substances or parameters at any location.