

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF OZARK BY ADDING ONE NEW CHAPTER TO TITLE IV "LAND DEVELOPMENT AND REGULATIONS", TO BE NUMBERED CHAPTER 435 AND RELATING TO THE REGULATION OF GRADING, SEDIMENT AND EROSION CONTROL AS IT RELATES TO THE MUNICIPAL STORM DRAINAGE SYSTEM.

WHEREAS, The State of Missouri recognizes the importance of retaining clean waterways and in so doing has established the Municipal Separate Storm Sewer System (MS4) regulated through the Missouri Department of Natural Resources; and

WHEREAS, As a part of its regulations and the issuance of a MS4 permit to the City of Ozark, the City is required to pass an Ordinance regulating grading, sediment and erosion control as it affects the storm sewer system; and

WHEREAS, The Board of Aldermen of the City of Ozark recognizes that grading, sediment and erosion control have a significant impact on the storm water system and may cause significant problems in maintaining clean waterways and agrees that the passage of the regulations set forth below are necessary to maintain our resources for the benefit of the Citizens of this City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OZARK, MISSOURI, AS FOLLOWS:

SECTION 1. The Code of Ordinances of the City of Ozark is hereby amended by adding one new Chapter to Title IV: LAND DEVELOPMENT AND REGULATIONS, which said new Chapter, shall be known as Chapter 435 and shall read as follows:

CHAPTER 435; GRADING, EROSION AND SEDIMENT CONTROL

SECTION 435.010: PURPOSE/INTENT.

The purpose of this Chapter is to protect the health, safety, and property of the Citizens of the City of Ozark and protect waters of the City and State from pollution resulting from the effects of erosion and sediment deposition from land disturbances. This section establishes uniform requirements for land disturbance activities in order to control the occurrence of erosion and the transportation of sediment to the City Municipal Separate Storm Sewer System (MS4).

SECTION 435.020: Definitions.

For the purposes of this section, the following words shall have the definitions hereinafter set forth:

Accepted or acceptance: A determination by the director that the document under review meets the minimum applicable standards.

BMP: Best Management Practices.

Best Management Practice (BMP): Any physical, chemical or managerial practice that reduces soil erosion or reduces the amount of sediment or other pollutants discharging to or potentially discharging to the MS4.

City: City of Ozark, Missouri.

Clearing; Any activity which removes the vegetative surface cover.

Construction Specifications: City of Ozark Construction Specifications for Public Improvements.

Department: City of Ozark Department of Public Works.

Design standards: City of Ozark Design Standards for Public Improvements.

Director: Director of Public Works of the City of Ozark, Missouri, or the director's authorized representative.

Discharge: Any substance disposed, deposited, spilled, poured, injected, seeped, leached, pumped, dumped, leaked, or placed by any means such that it can reasonably be expected to enter, intentionally or unintentionally, into waters of the City or waters of the state, or on any area draining directly or indirectly into the MS4.

Erosion: The wearing away of land due to the action of gravity, wind, water or other mechanical forces.

Erosion and Sediment Control Plan; A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequence to be used to control erosion and sediment on a development site before, during and after construction.

Grading; Excavation or fill of material, including the resulting conditions thereof.

Grubbing; To dig up by the roots, uproot.

Guideline Manual: A field guide published by MODNR titled; Protecting Water Quality, A field guide to erosion, sediment and storm water best management practices for development sites in Missouri.

Land disturbance permit: The document issued by the City approving the SWPPP and authorizing land disturbance activity in accordance with the SWPPP.

Land disturbance: Any activity that exposes soil including clearing, grubbing, grading, excavating, filling and other related activities.

MEP: Maximum extent practicable.

MODNR: Missouri Department of Natural Resources.

MS4: Municipal Separate Storm Sewer System.

Municipal separate storm sewer system (MS4): Those artificial and natural facilities within the City, whether publicly or privately owned, by which storm water may be conveyed to a watercourse or waters of the state, including but not limited to any roads with drainage systems, streets, catch

basins, natural and artificial channels, aqueducts, stream beds, gullies, curbs, gutters, berms, ditches, swales, open fields, parking lots, impervious surfaces used for parking, or storm drains, however, sanitary sewers are not included in the definition of the City's separate storm sewer system.

NOV; Notice of violation.

Pollution: Any alteration of the quality of waters of the City or waters of the state to a degree that they are rendered harmful, detrimental or injurious to humans, natural life, vegetation or property, to the public health, safety and welfare, or otherwise impairs the usefulness or public enjoyment of waters for any lawful and reasonable purpose, including interference with the proper functioning of the MS4.

Responsible party: The property owner or person authorized to act on the property owner's behalf; or any person allowing, causing or contributing to a violation of this Chapter.

Sediment: Mineral or organic matter generated as a result of erosion.

Sediment Control; Measures that prevent eroded sediment from leaving a site.

Site; A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Standard Details: City of Ozark Standard Drawing Details for Public Improvements.

Start of Construction; The first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Stop work order: That upon notice from the Director, or the director's authorized representative, that work on any property that is contrary to the provisions of this chapter or in an unsafe and dangerous manner, or in conflict with the approved construction documents, such work shall be stopped.

Storm water: Any surface or shallow subsurface flow, runoff, or drainage consisting entirely of water from rainstorm or frozen precipitation events.

Storm water pollution prevention plan (SWPPP): A plan developed by a qualified professional engineer or person certified in erosion and sediment control to establish controls to limit erosion and transport of sediment and other pollutants from the site. The plan shall include BMPs in accordance with the City's storm water design criteria, design standards for public improvement and the general conditions and technical specifications for public improvements.

SWPPP: Storm Water Pollution Prevention Plan.

Water quality standards: The standards, required under the Clean Water Act, which Missouri has adopted to control and remedy water pollution (10 CSR 20-7.031). Water quality standards have three parts: water use classifications, water quality criteria, and an antidegradation policy.

Waters of the City: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, sinkholes, springs, wetlands, wells and channels, and other bodies of surface or subsurface waters, natural or artificial, lying within the boundaries of the City.

Waters of the state: Any water, surface or underground, lying within the boundaries of the City over which the State Department of Natural Resources has authority with respect to Clean Water Law.

Watercourse; Any body of water, including; but not limited to lakes, ponds, rivers and streams

Waterway; A channel that directs surface runoff to a watercourse or to the public storm water system.

SECTION 435.030: SCOPE AND AUTHORITY.

This section is applicable to all land disturbance activity within the City unless specifically exempted. The provisions in this section shall be administered and enforced by the director. The director shall have the authority to develop and implement procedures, forms, policies, design and construction standards and interpretations for administering the provisions of this section.

SECTION 435.040: EROSION AND SEDIMENT CONTROL.

The responsible party shall control site erosion and the release of sediment and other pollutants resulting from land disturbance activities to the maximum extent practicable (MEP) utilizing best management practices (BMPs). The responsible party shall ensure that BMPs are designed, constructed and maintained during land disturbance activities in accordance with the most recent versions of the guideline manual, design standard, standard details and construction specifications.

SECTION 435.050: WHEN PERMIT IS REQUIRED.

A Land Disturbance Permit is required for all land disturbance activity affecting one acre or greater, cumulatively, throughout the duration of the development. The responsible party shall obtain a land disturbance permit from the department prior to commencing land disturbance activity. A land disturbance permit is not generally required for land disturbance of less than one acre, cumulatively, throughout the duration of the development. However, a land disturbance permit may be required if the director determines that there is significant potential for deposition of sediment that is in violation of this section or the land disturbance activity is within close proximity to valuable resource waters. Regardless of land disturbance size, a land disturbance permit is required if the land disturbance is located 50 feet or less from the boundary of a spring, rim of a sinkhole, cave entrance, wetland, watercourse, stream buffer or 100-year floodplain. The director shall provide written notice of the need for a permit to the responsible party or person conducting the land disturbance activities. The responsible party shall obtain a land disturbance permit from the department prior to commencing or resuming land disturbance activity.

SECTION 435.060: WORK EXEMPT FROM PERMIT.

(A) A Land Disturbance Permit shall not be required in the following instances, provided that no change in drainage patterns or sedimentation onto adjacent properties will occur:

- (1) Grading of land for farming;
- (2) Nurseries;
- (3) Gardening or similar agricultural or horticultural use; and
- (4) Grading activities in quarries and permitted sanitary landfills.

(B) No land disturbance permit is required for the following activities, provided they are less than one acre of cumulative land disturbance, are not located within 50 feet of the boundary of a spring, rim of

a sinkhole, cave entrance, wetland, watercourse, stream buffer or 100-year floodplain and do not cause a violation of Missouri Clean Water Law or water quality standards:

- (1) Grading and repair of existing roads or driveways;
- (2) Cleaning and routine maintenance of roadside ditches or utilities;
- (3) Utility construction where the width of the disturbed area for trench excavation and backfill is twenty feet (20') or less;
- (4) Emergency construction required to repair or replace roads, utilities, or other items affecting the general safety and well being of the public; and
- (5) Land disturbance for single family residences not part of an overall subdivision plan.

(C) For emergency construction activities which would otherwise be required to obtain a permit and for which remedial construction will take more than 14 calendar days, application for the land disturbance permit must be made within three calendar days from the start of construction.

SECTION 435.070: MINIMUM REQUIREMENTS.

The most recent versions of the guideline manual, design standard, standard details and construction specifications sets forth minimum requirements that must be met in order to obtain a land disturbance permit. These documents also provide guidance and additional resources to facilitate control of soil erosion and pollutants on land that is undergoing development. Grading, erosion control practices, sediment control practices and waterway crossings shall meet the design criteria as outlined in these documents.

SECTION 435.080: PERMIT APPLICATION AND FEES.

An application for a Land Disturbance Permit shall be submitted on the City's land disturbance application form provided by the department and filed with the department. Each land disturbance permit application shall be accompanied by a MODNR land disturbance permit, a MODNR state operating permit and BMP's securities as well as a erosion and sediment control plan and a SWPPP both prepared by a qualified professional engineer or person certified in erosion and sediment control meeting the provisions of this section, unless the requirement is specifically waived by the director. The responsible party shall install and maintain BMPs in accordance with the land disturbance permit and SWPPP. The responsible party shall maintain a copy of the city's and MODNR's land disturbance permits, the sediment and erosion control plan and the SWPPP on site. Major amendments of the erosion and sediment control plan shall be submitted to the City and shall be processed and approved, or disapproved, in the same manner as the original plans. Field modifications of a minor nature may be authorized by the City's inspector. The City shall collect a fee for the purpose of recovering administrative costs associated with processing applications, reviewing plans, issuing permits, conducting inspections and enforcing this section. Each applicant shall pay the applicable fee at the time of application. Such fees shall be established in a schedule periodically adjusted by Ordinance from time to time.

SECTION 435.090: STORMWATER POLLUTION PREVENTION PLAN REQUIREMENTS.

The responsible party shall submit a SWPPP with the permit application that shall be prepared in accordance with the most recent versions of the guideline manual, design standard, standard details and construction specifications. No land disturbance permit shall be issued prior to review and acceptance of the SWPPP by the director. The responsible party shall provide and implement revisions to the SWPPP, as necessary, due to conflicts, omissions, changed conditions or damage

resulting in a violation of any part of this section to address and correct the condition causing the violation.

SECTION 435.100: INSPECTIONS.

The responsible party shall provide a qualified inspector to conduct inspections on a weekly basis or within 48 hours of a one-half-inch or greater rain event. A copy of each weekly and rain event inspection shall be faxed to the Department as instructed. The log of such inspections shall be maintained on site and available for review by the City upon request. By applying for a grading permit, the applicant consents to the City inspecting the proposed development site and all work in progress.

SECTION 435.110. SECURITY REQUIREMENT.

Upon approval of the SWPPP and prior to issuance of a land disturbance permit, the City shall require the developer to post a security in the form of a cash bond, cash or equivalent approved by the City of not less than 150 percent of the value of all erosion and sediment control measures which are part of the SWPPP. For land disturbance permits where no other security will be required the only type of security which will be accepted will be a cash bond. For land disturbance permits where other security is established for public improvements, the erosion control security may be added to the security for public improvements. If the bond, letter of credit or other security document is placed in default, or the insurance is terminated or not maintained at a satisfactory level, then no further permits or approvals, including building permits, shall be issued for the developer's property located in the development for which the security was given, until the improvements are completed to the satisfaction of the City. Any portion of the deposit not expended or retained by the City hereunder shall be refunded when soil and drainage conditions are stabilized to the satisfaction of the City and the land disturbance permit is closed.

SECTION 435.120: FAILURE TO COMPLY.

Enforcement of this chapter shall be the responsibility of the director. The party or parties responsible and liable for actions or non-action in regards to this ordinance, including responsibility for abating violations of this Ordinance, shall be the property owner or person authorized to act on the property owner's behalf; or any person allowing, causing or contributing to a violation of this Chapter. If an investigation or inspection results in a finding of noncompliance with this Ordinance, the director is authorized to issue a Notice of Violation (NOV) that may, at the discretion of the director, include a stop work order or a citation. The NOV shall specify the deficiencies, what corrective action is necessary, and a specific timeframe in which the responsible party is to achieve compliance. The written NOV, including a stop work order or citation as applicable, shall be mailed, postage pre-paid, or hand-delivered to both the permittee and owner. Failure to comply with a notice from the director shall result in the issuance of a stop work order or citation. Issuance of a stop work order shall result in a suspension of all construction activity on the site, except for work related to remediation of the violation, until the violation is resolved to the City's satisfaction. The stop work order shall also suspend the right of the permittee, applicant, owner, contractor, developer or any related entity to build or construct any structure or public improvement on any portion of the site. It shall be unlawful for any person or responsible party to fail to comply with a stop work order. The director and the building and development department, upon issuance of a stop work order, are authorized to suspend the issuance of building permits and occupancy permits for structures on any portion of the site, terminate City utility services to the site, and to suspend all inspections and plan review related to any other work that is taking place on the site, until such time as the violation is resolved to the City's satisfaction. Stop work orders shall specifically state the provisions of this Ordinance or the land disturbance permit being violated. Any person, who shall continue any work in or about the site after

having been served with a stop work order, except such work related to remediation of the violation, shall be subject to penalties as specified in **section 435.130**. Said stop work order may be lifted upon the presentation and construction of an accepted plan to avoid sediment runoff and the removal of any such sediment as ordered. All stop work orders that are issued by the director must be posted on the site on which the grading activity is taking place, and in reasonable proximity to a location where the grading activity is taking place. All stop work orders posted in this manner shall be considered validly delivered. It shall be the responsibility of the owner to ensure that no violation of this chapter occurs on his/her property. If the responsible party fails to comply with a NOV, stop work order, or there is no immediate settlement, a summons to court may be issued to the responsible party. The summons to court shall contain all the information required by the City Code and will be enforced and issued through the municipal court. The director shall have the option of causing a summons to Municipal Court to be issued immediately upon discovery of a violation, in lieu of a NOV.

SECTION 435.130: PENALTIES FOR VIOLATION.

Any person who violates the provisions of this chapter shall be subject to the following penalties per day and each and every day shall be deemed a separate offense.

- Penalties shall be an applicable dollar amount per violation per day and/or imprisonment for a period of time per violation per day. The dollar amount and imprisonment period shall be the established amounts at the time of violation. Such dollar amounts and imprisonment periods shall be established in a schedule periodically adjusted by Ordinance.
- The City may recover all Attorneys' fees, Court costs, (fines or penalties assessed against the City by the MODNR) and other expenses associated with enforcement of this Ordinance.

SECTION 435.140: REMEDY TO CAUSE REMOVAL.

The City Attorney may seek any appropriate remedy to cause the removal of such sediment including, but not limited to, an injunction, revocation proceedings for any and all permits, licenses, and termination of utility services.

SECTION 435.150: CONFLICTS WITH OTHER ORDINANCES OR LAWS.

This Ordinance shall not abrogate or annul any existing City, State or Federal Law, Ordinance, rule or regulation. Where any provision of these regulations imposes restrictions different from those imposed by any other regulation, the provision that is more restrictive or imposes a higher standard shall control.

PASSED THIS 16TH DAY OF MAY 2011.


	AYE	NAY	ABSENT/ABSTAIN
ALDERMAN JAMES HAIK	X		
ALDERMAN CHRIS SNYDER	X		
ALDERMAN MARK SPINABELLA	X		
ALDERMAN DENNIS SPARROW	X		
ALDERMAN RICK GARDNER	X		
ALDERMAN EDDIE CAMPBELL	X		

APPROVED THIS 16TH DAY MAY 2011.



SHANE L. NELSON, MAYOR

ATTEST:


Lana Wilson, City Clerk

Bill #2547
Ordinance #11-013
May 16, 2011