

BILL NO. 10-9-16

ORDINANCE NO. 5280

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 10, ARTICLE IV, DIVISION III OF THE CODE OF CITY ORDINANCES OF THE CITY OF WARRENSBURG, MISSOURI, REGARDING EROSION AND SEDIMENT CONTROL REGULATIONS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WARRENSBURG, MISSOURI, AS FOLLOWS:

Section 1. Sections 20-100, 20-102, 20-104 and 20-108 of the Code of Ordinances are hereby amended to read as follows:

Sec. 20-100. General

- (a) Title. This Division shall be known as the Erosion and Sediment Control Regulations.
- (b) Purpose. The purpose of this Division is to control or eliminate stormwater pollution along with soil erosion and sedimentation within the City. It establishes standards and specifications for conservation practices and planning activities which minimize stormwater pollution, soil erosion and sedimentation.
- (c) Scope. Any person, entity, agency, or political subdivision proposing a land disturbance activity within the City shall apply to the City for the approval of a Stormwater Pollution Prevention Plan. No land shall be disturbed prior to the issuance of an excavation permit and approval of a plan by the City that conforms to the standards set forth herein and in the Stormwater Design Manual approved by the City from time to time.
- (d) Stormwater Design Manual. In order to implement the provisions of this Division, a Stormwater Design Manual shall be approved by separate resolution from time to time to implement these regulations. In the event of conflict between this ordinance and the Manual, the stricter requirement shall control.

Sec. 20-102 Land Disturbance Permitting Process

- (a) Permit Required. No person or entity may clear, grub, grade, fill, excavate, store, stockpile, transport, or dispose of earth materials or perform any other land disturbing activity including such activity related to the demolition of any structure without a land disturbance permit. A land disturbance permit is required whether or not a building permit or right-of-way permit is required. Land disturbance activities not requiring land disturbance permits are limited to the following activities:
 - (1) Minor land disturbance activities such as private home gardens and an individual's home landscaping, repairs and maintenance work.
 - (2) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles.
 - (3) Tilling, planting or harvesting of agricultural, horticultural or silvicultural crops.

(4) Emergency work performed to protect life, limb, or property that would have otherwise required an approved stormwater pollution prevention plan.

(b) **Application.** Application for a land disturbance permit shall be filed with the City on forms furnished by the City for such purpose. At a minimum, the form shall contain the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the permit holder together with the name of the permit holder's principal contact at such firm. Incomplete applications will be returned to the applicant and will not be processed until the form and all of the following items are submitted:

(1) A filing fee as set by resolution of the City Council.

(2) The estimated starting and completion dates for the proposed land disturbance activities schedule and permit term.

(3) Two copies of a site plan showing the following information:

a. Property lines and dimensions of the site;

b. The location of any existing buildings or structures on the site and the location of any building or structure on the land of adjacent property which is within 50 feet of the property boundary;

c. The elevations, dimensions, locations, extent, and slopes of all proposed land disturbance activities shown by contours or other means;

d. Graphic representation of proposed excavations and fills, of on-site storage of soil and other earthen material, and of on-site disposal or spoil areas;

e. Graphic representation, including design details, of each temporary and permanent erosion, surface runoff and sediment control measure and structure;

f. Graphic representation of the location of all existing and proposed natural and man-made drainage facilities;

g. A clear and definite delineation of any wetlands, natural or artificial water storage detention areas, and drainage ditches on the site, or a statement that there are no wetlands, detention areas or drainage ditches located on the property;

h. A clear and definite delineation of any drainage, sanitary, utility, or other easement(s) on or near the site.

(4) A Stormwater Pollution Prevention Plan (SWPPP) prepared for the disturbed area and site along with two sets of all supporting plans, specifications, reports, and documentation. This plan must be sufficient to evaluate the environmental characteristics of the affected area; assess the potential impacts of the proposed land disturbance on water resources; and, assess proposed methods to minimize on-site soil erosion and prevent off-site sedimentation to the maximum extent practicable, including disturbance of topsoil and limitation on disturbance.

- a. For any site where one acre or more of land will be disturbed, including sites of less than one acre that are part of a larger common plan that will ultimately disturb one acre or more, the SWPPP is required to be prepared by a design professional recognized by the State of Missouri as qualified to prepare a SWPPP.
- (5) Qualified cost estimates of work to be performed under the SWPPP.
 - (6) A performance guaranty in accordance to Sec. 20-108.
 - (7) A Land Disturbance Permit issued by the Missouri Department of Natural Resources for any site where one acre or more of land will be disturbed, before beginning any site work authorized by a City permit. This requirement includes sites of less than one acre that are part of a larger common plan that will ultimately disturb one acre or more.
 - (8) Copy of Open Burning Permit issued from the Missouri Department of Natural Resources prior to burning any vegetation on-site.
- (c) Review and Approval.** The City will review all applications to determine their conformance with the provisions of this section 20-104 and the erosion and sediment control design criteria. After receiving all required submissions, the City shall notify the applicant in writing of his or her intention to:
- (1) If a building permit is otherwise required:
 - a. Approve the plan and notify the Building Official that all requirements of this Division have been met and that the permit may be issued; or
 - b. Conditionally approve the plan and notify the Building Official that the requirements of this Division have been met and that the building permit may be issued, subject to conditions as may be necessary to substantially secure the objectives of this Division, prevent the creation of a nuisance or an unreasonable hazard to persons or to a public or private property; or
 - c. Disapprove the plan and notify the Building Official that the requirements of this Division have not been met, indicating those requirement(s) that have not been met and the procedure for submitting revised information and/or submittals.
 - (2) If a building permit is not otherwise required:
 - a. Approve the plan and issue a land disturbance permit; or
 - b. Conditionally approve the plan and issue a land disturbance permit subject to conditions as may be necessary to substantially secure the objectives of this Division, prevent the creation of a nuisance or an unreasonable hazard to persons or to a public or a private property; or
 - c. Disapprove the plan and inform the applicant in writing of those requirement(s) that have not been met and the procedure for submitting revised information and/or submittals.

(d) **Design Standards** All work done under a permit issued under this Chapter shall be done in conformity with the currently adopted Stormwater Design Manual. The Manual shall be approved by the City Council by resolution from time to time and kept on file with the Department of Public Works. In the event of any conflict between this ordinance and the Manual, the stricter requirement shall control.

(e) **Violation** Any person or entity violating the terms of this Chapter, or of the Stormwater Design Manual, shall be guilty of an offense punishable under Section 1-15.

Sec. 20-104. Standards of Performance and Maintenance of Structures, Measures and Devices.

All structures, measures and devices installed or used for erosion and sediment control practices at a site or disturbed area must meet the criteria and performance standards set forth in the Stormwater Design Manual.

Sec. 20-108. Performance Guaranty.

- (a) The applicant shall post a performance guaranty in the form of a cash bond, performance bond or letter of credit. The guaranty shall be in such form and amount as is necessary to assure the work, if not completed in accordance with this Division, will be corrected. The amount of the performance guaranty shall be determined by the Public Works Director to secure the costs for improvements required by this Division, and this amount shall be in addition to any other amounts necessary to secure the faithful performance of other acts required of the permit holder by the City that the performance guaranty is intended to cover. The Public Works Director may grant a partial or complete waiver of the performance guaranty, upon application, for governmental or quasi-governmental entities or state regulated utilities or where the Public Works Director finds minimal impairment of existing surface drainage, minimal erosion hazard, minimal sedimentation hazard upon any adjacent land or watercourse, and no hazard to human life or property. All performance guaranties shall be accompanied by a pledge and performance agreement that shall grant the City the right to enter onto the applicant's property and utilize the security to either complete stormwater control measures or to correct deficiencies in the work to assure compliance with the performance standards set forth in this Chapter and in the Stormwater Design Manual.
- (b) In the event of any alleged default in the performance of any term or condition of the performance guaranty, the City, the surety, the issuing organization or entity, or any person employed or engaged on its behalf has a right to go upon the site or disturbed area to complete the required work necessary to control erosion and sedimentation or to protect properties, watercourses and persons. In the event the City undertakes this work with the funds from a forfeited performance guaranty, the funds must be used to pay the cost of contracting, including engineering and administration, for necessary restoration of the site to control erosion and sediment within the requirements set forth in this Division, permit, or performance guaranty. If the cost of the work necessary to control erosion and sediment or to protect properties, watercourses and persons exceeds the amount of the performance guaranty, the permit holder shall continue to be firmly bound under a

continuing obligation for payment of all excess costs and expenses incurred by the City. The cost of necessary work in excess of the performance guaranty shall be certified by the City Clerk of the City of Warrensburg and shall, to the extent authorized by law, become a lien upon all property and all rights to property, real or personal, of any person liable to pay that cost. The cost of removal shall be listed on the tax bill and be collected in the manner of ordinary taxes to the extent authorized by law.

- (c) A performance guaranty remains in full force and effect until a completion certificate is issued and all other permit holder's acts covered by the performance guaranty have been determined to be complete in accordance with the applicable City code provisions. Failure to renew the performance guaranty 14 days prior to expiration shall be deemed default by the City.
- (d) The City shall issue a Notice of Violation or Stop Work order upon failure of any permit holder to maintain the performance guaranty.

Section 2. It is intended the provisions of Section One (1) of this ordinance shall become a part of the Code of Ordinances of the City of Warrensburg and it may be renumbered to accomplish that purpose.

Section 3. This ordinance shall be in full force and effect upon its passage.

Read two times and passed by the City Council this 24th day of October, 2016.

Casey R. Renfrow
Casey R. Renfrow, Mayor

