

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. TMP-3475

..title

Amending Chapter 60, Code of Ordinances of Kansas City, Missouri, by repealing Section 60-32, Construction of private sewage disposal systems, and enacting in lieu thereof a new section of like number and subject matter; Amending Chapter 61-20, Code of Ordinances of Kansas City, Missouri, by repealing Section 61-20, Enclosing natural drain ditches, and enacting in lieu thereof a new section of like number and subject matter; Amending Chapter 63, Code of Ordinances of Kansas City, Missouri, by repealing Sections 63-21, Title and authority, and 63-24, Definitions, and enacting in lieu thereof new sections of like number and subject matter; Amending Chapter 64, Code of Ordinances of Kansas City Missouri, by repealing Section 64-4, and enacting in lieu thereof a new section of like number and subject matter all for the purpose of transferring certain permitting functions from the City Planning and Development Department to the Water Services and Public Works Departments; and Directing the City Manager to begin transition of these permits from the City Planning and Development Department to the Water Services and Public Works Departments, including taking steps to address any needed staffing, funding, and legislative changes to effectuate the transition; and appropriating \$ _____ from the _____ fund.

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BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 60, Code of Ordinances is hereby amended, by repealing Section 60-32 and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 60-32. Construction of private sewage disposal systems.

(a) *Permit required.* No person shall construct a private sewage disposal facility or system on any individual lot or lots in any subdivision of land located in the city, or on any single parcel or tract of land under common ownership, where such sewage disposal facility or system is not intended to be part of the city's sewage system, without first procuring from the ~~city planning and development~~water services department a permit for such construction.

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(b) *Survey fee; inspection fee.* Where the ~~city planning and development~~water services department deems that a survey of the property in question is necessary before such permit can be issued, a private sewage disposal system survey fee of \$25.00 shall be assessed. The private sewage disposal construction inspection fee shall be \$25.00.

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(c) *Construction standards.* The plans and construction of the private waste disposal system shall be in accord with the regulations of the state division of health, state department of natural resources and state clean water commission, except as modified by the building code engineer to conform with conditions common to the city and applicable to city standard specifications.

(d) *Penalty for failure to obtain permit.* Any person who shall construct a private sewage disposal system without first having procured a permit shall be guilty of a violation, and upon conviction thereof shall be fined not less than \$25.00 and not more than \$500.00 for each separate violation.

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Section 2. That Chapter 61, Code of Ordinances is hereby amended, by repealing Section 61-20 and enacting in lieu thereof a new section of like number and subject matter to read as follows:

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Sec. 61-20. Enclosing natural drainage ditches.

(a) *Permit required.* No person shall enclose any natural drainage ditch abutting against or traversing his property without having first obtained a permit from the ~~city planning and development~~water services department for such enclosure.

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(b) *Filing of plans.* Prior to the issuing of the permit, the permittee shall file plans showing the method of construction of the enclosure with the ~~city planning and development~~water services department and obtain its approval of such methods and materials, and the size of the structure or pipe.

(c) *Materials.* Any pipe, culvert, box enclosure or similar mechanism employed to contain any such creek, creek bed, natural drainage ditch or other stream shall be of a material meeting requirements as set forth in the general specifications entitled "Pipes, Sewer," on file in the department of water services.

(d) *Issuance of permit; inspections.* The permit issued for such enclosure shall be at no charge. The permittee shall notify the ~~city planning and development~~water services department when the enclosure is complete and prior to the placing of backfill or topsoil cover over the enclosure, so that the ~~city planning and development~~water services department may inspect the work and material in place in order to ensure conformance with this section.

(e) *Noncompliance with specifications.* Should such materials or methods employed by a permittee not be in conformance with the specifications for such work as furnished by the department of water services, then the ~~city planning and development~~water services department may order the removal of such enclosure, pipe or conduit.

(f) *Responsibility for maintenance and repair.* Nothing contained in this section shall increase the liability of the city for future maintenance or repair of any such pipe, conduit, culvert or enclosure placed in any stream, creek bed or drainage ditch, such maintenance and repair being and remaining the sole responsibility of the property owner upon whose property such ditch or creek bed lies.

Section 3. That Chapter 63, Code of Ordinances is hereby amended, by repealing Sections 63-21 and 63-24 and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 63-21. Title and authority.

This ~~Article~~article shall be known as the Kansas City, Missouri Erosion and Sediment Control Regulations and may be cited as "~~Erosion~~"erosion and ~~Sediment Control Regulations~~"sediment control regulations" or "~~Regulations~~"regulations". The director of ~~city planning and development~~water services shall be responsible for the administration and enforcement of this ~~Article~~article.

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Sec. 63-24. Definitions.

For the purposes of this ~~Article~~article, the following terms, phrases, words and their derivations shall have the following meanings. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

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The words "~~shall~~" and "~~will~~" are mandatory and "~~may~~" is permissive. Words not defined shall be given their common and ordinary meaning.

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Adopted ~~Standards~~standards means any design or construction specification, including the erosion and sediment control design criteria and specifications, adopted in writing by the director of public works or director of water services.

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Agricultural ~~Crop Management Practices~~crop management practices means all land farming operations including plowing or tilling of land for the purpose of crop production or the harvesting of crops.

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Applicant means the person who owns the affected property or the ~~person's~~person's authorized agent who submits or is required to submit an application to the director of ~~city planning and development~~water services for a site disturbance permit.

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Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

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Building ~~Permit~~ permit means any permit issued by the director of codes administration.-

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Clearing- means any activity which removes the vegetative ground cover including, but not limited to, root removal or top soil removal.-

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Code means the ~~code~~Code of ~~ordinances~~Ordinances for the city.-

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Construction activity- means activities subject to national pollutant discharge elimination system permits issued by the Missouri Department of Natural Resources or EPA (~~““NPDES construction permits””~~) or city land-disturbance permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.-

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Director- means the director of ~~city planning and development~~water services of the city or the ~~director's~~director's authorized representative.-

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Earth ~~Materials~~ materials means any rock, natural soil or combination thereof.-

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Erosion- means the wearing away of land by the action of wind, water, gravity, or a combination thereof.-

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Erosion and ~~Sediment Control Plan~~ sediment control plan means a set of measures designed to control runoff and erosion, and to retain sediment on a particular site during pre-construction, construction, and after all permanent improvements have been erected or installed.-

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Erosion and ~~Sediment Control Regulations~~ sediment control regulations means this ~~Article~~article in its entirety.-

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Erosion and ~~Sediment Control Specifications~~ sediment control specifications means the erosion and sediment control design criteria and specifications adopted in writing by the director of public works.-

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Engineer- means a ~~Civil Engineer~~civil engineer that is registered as a ~~Professional Engineer~~professional engineer with the Missouri Board of Architects, Professional Engineers and Land Surveyors.-

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Excavate- means the mechanical removal of earth materials.-

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Fill means the deposit or stockpiling of earth materials.

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Grading means any excavating or filling of earth materials or any combination thereof.

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Inspection means the periodic field review of erosion and sediment control measures as defined in the erosion and sediment control plan for the purposes of determining compliance.

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~~*Land Disturbance/Land Disturbance Activity*~~ *Land disturbance/land disturbance activity* means any activity that changes the physical conditions of landform, vegetation, and hydrology. Such activities include, but not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging, and storing of materials.

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Land Fill means any human activity depositing soil or other earth materials.

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Nuisance means any act or situation as defined in ~~Section~~ *section* 48-3 of the Code of Ordinances for the ~~City~~ *city*.

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Occupant means any person who has a legal or equitable interest in any land, building or structure other than a fee interest, including a life tenant, tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of such land, building or structure as the agent or personal representative of the person holding legal title to a fee interest.

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Owner means any person who, alone or jointly or severally with others:

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(1) Shall have legal title to any land, building or structure, or part thereof, with or without having actual possession thereof; or

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(2) Shall have charge, care or control of any land, building or structure, or part thereof; or

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(3) Shall have possession or right to possession of any land, building or structure under contract for deed.

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Person means any individual, firm, partnership, corporation, association, organization, or legal entity of any kind including governmental entities.

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QCR means ~~Quality Control Review~~quality control review, a process of checking a ~~Plan~~plan submittal application or resubmitted for completeness against a certified submittal checklist that the applicant has prepared and attached to the ~~Plan~~plan prior to acceptance for technical review.-

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RCR means review comment resolution, a service provided to communicate and clarify review deficiencies.

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~~*RCR* means Review Comment Resolution, a service provided to communicate and clarify review deficiencies.-~~

Regulations- means the Kansas City, Missouri Erosion and Sediment Control Regulations in its entirety.-

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Sampling- means the procedures associated with the determination of settleable solids and may include suspended solids in a discharge sample of water.-

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Sediment- means any solid material, mineral or organic that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, or gravity as result of soil erosion.-

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Site ~~Disturbance Permit~~disturbance permit means authorization given by the director of ~~city planning and development~~water services noted in ~~Section~~section 63-34, to perform land disturbance activities.-

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Soil- means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.-

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Soil ~~Storage~~storage means any human activity depositing soil or other earth materials for later use or disposal.-

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Timbering- means the act of cutting and removing trees without disturbing the root or adjacent vegetation.-

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Vegetative ~~Cover~~cover means any grasses, shrubs, trees and other vegetation which hold and stabilize soils.-

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Water ~~Bodies~~bodies means surface waters including rivers, streams, lakes and wetlands.-

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include the following surface waters of the state intentionally constructed from sites that are not wetlands: drainage ditches, grass-lined swales, and landscape amenities.

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~~*Work* means any activity that involves construction or preparation for construction of an improvement.~~

Work means any activity that involves construction or preparation for construction of an improvement.

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Section 4. That Chapter 64, Code of Ordinances is hereby amended, by repealing Section 64-4 and enacting in lieu thereof a new section of like number and subject matter to read as follows:

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Sec. 64-4. Construction or repair by property owner of facilities in adjacent right-of-way.

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(a) Definitions. As used in this section:

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Director means the director of ~~city planning and development~~ public works of the city ~~for work including improvements to streets, alleys, streetlights, streetlight signals, sidewalks, driveways, curbs and gutter, and retaining walls within the right-of-way.~~ *Director* means director of water services for work including grading, site disturbance, stream buffer protection requirements, storm sewers, and sanitary sewers, unless otherwise defined herein.

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Improvement means new or a modification of existing curbs, gutters, driveways from curb to property line, sidewalks, sewers, street lighting systems, stream buffer protection requirements and appurtenances by a change in grade, construction, repair or reconstruction authorized under this section.

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Owner means the person, persons, or any legally recognized entity holding title to real property.

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Permittee means an owner of private property, or the owner's representative or contractor a holding a special permit issued pursuant to this section.

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Plan means a drawing, sketch, report, or document prepared in accordance with adopted city standards and codes to convey a design, improvement or repair, and submitted for review and permitting pursuant to this section.

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QCR means quality control review, a process of checking a plan submittal application or resubmittal for completeness against a certified submittal checklist that the applicant has prepared and attached to the plan prior to acceptance for technical review.

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RCR means review comment resolution, a service provided to communicate and clarify review deficiencies.

~~*RCR* means review comment resolution, a service provided to communicate and clarify review deficiencies.~~

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Special permit means a permit issued by the director pursuant to this section for the construction or preparation for construction and maintenance thereto of an improvement, including site disturbance activities that are performed in accordance with chapter 63 of the Code under this permit.

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~~*Work* means any activity that involves construction or preparation for construction of an improvement.~~

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Work means any activity that involves construction or preparation for construction of an improvement.

(b) Permit required: issuance of permit. The director is hereby authorized to issue a special permit, upon request, to owners of private property, or their representatives or contractors, to make improvements, at their own expense, in the public streets or alleys adjacent to or running through their property, if the director determines that such improvements are reasonably necessary. No person shall begin any such work until such permit therefor has been issued.

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(c) Authorization of work under building permit. Authorization for construction of such sidewalks and driveways within street rights-of-way adjacent to any lot on which a residential building is proposed may, at the option of applicant, be included in the building permit for that structure.

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(d) Application, review process and fees.

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(1) Application. Each applicant for a special permit shall complete an application in the form provided by the director. The name of the applicant and lead contact shall appear on the application. The applicable fees pursuant this section shall be paid at the time of filing for review, resubmittal, and permit issuance. After review of an application, the director shall notify the applicant of such further action and reviews as necessary. If an application is approved, the applicant may procure all required permits for the work within 365 days. If all required permits for the work have not been procured, then the approval of the application shall be null and void, provided that the director may waive

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reapplication for plan review or may extend the time for action by the applicant for a period not to exceed 180 days upon request by the applicant if the director determines that there exist circumstances beyond the control of the applicant preventing procurement of permits for the work. Not more than one extension shall be allowed. Thereafter, a new application and new fee shall be required. Plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the director.

- (2) *Estimated cost of construction.* The determination of the estimated cost of construction under any provision of this section shall be made by the director. The estimated cost of construction to be used in computing the special permit fee and associated review fees shall be based on the total costs of similar construction at the time of application for review or permit issuance.

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- (3) *Major infrastructure reviews and permit fees.* As a condition for issuance of a special permit pursuant this section for grading, improvements to streets, alleys, streetlights, streetlight signals, storm sewers, stream buffer protection requirements, and sanitary sewers, the applicant shall pay a basic plan fee in an amount equal to 8.40 percent of the estimated cost of the construction, and such other fees as set forth herein, to defray the cost of plan review services, quality control review (QCR) services, review comment resolution (RCR) services, resubmittal review services, permitting services, supervision, and inspection services. The basic plan fee shall be composed of both an initial technical plan review fee for plan review services, (QCR) services, and (RCR) services in an amount equal to 3.65 percent of the estimated cost of the construction, and a permitting fee for permitting services, supervision and construction inspection in an amount equal to 4.75 percent of the estimated cost of the construction. In no case shall the basic plan fee be less than \$1,000.00 per permit per month of permit duration, or any extension thereof.

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An applicant shall submit a plan for QCR and certify that all of the necessary plan components are contained in the plan as required by the special permit submittal checklist. If, as certified, all of the plan components have been submitted, but the submittal fails QCR for other omissions or deficiencies not set out in the checklist, no additional fee will be charged for subsequent QCR submissions by the applicant, if any, required by the director. If any QCR determines that plan does not contain all of the components certified by the applicant, then the applicant shall pay the city an additional fee of \$70.00 for each subsequent submittal for QCR made necessary by applicant's failure to satisfactorily cure the deficiencies.

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If the plan passes QCR, then the plan shall be submitted for technical review of the plans and applicant shall pay the initial technical plan review fee in an amount equal to 3.65 percent of the estimated construction cost. If after the initial technical review the director determines that there are technical deficiencies in the plan, the

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director shall notify applicant of the deficiencies and offer RCR services, and applicant may resubmit the plan for a second technical review without an additional review fee. Prior to a second technical review the applicant shall submit a revised plan for QCR and certify that all of the necessary plan components, additions, or changes previously noted by the director are contained in the plan. If any QCR determines that plan does not contain all of the revised components certified by the applicant, then the applicant shall pay the city an additional fee of \$65.00 for each subsequent QCR made necessary by applicant's failure satisfactorily cure the QCR deficiencies. On second technical review and all technical reviews thereafter, if the director determines that the applicant has failed to satisfactorily cure the technical deficiencies previously noted on prior technical reviews, then the applicant shall pay the city an additional resubmittal technical review fee in an amount equal to 0.30 percent of the estimated cost of construction for each subsequent technical review made necessary by applicant's failure to satisfactorily cure such deficiencies.

If after the technical review the director determines that the plan application is in substantial compliance with city's regulations and adopted standards, the director shall notify applicant of application approval for permit issuance. The applicant shall pay the permitting fee in an amount equal to 4.75 percent of the estimated cost of construction and procure all required permits as provided in subsection (h)(1). The determination that the plan is in compliance with city regulations does not imply that the city is guaranteeing specific outcomes nor is the city accepting any responsibility for the plan.

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(4) *Minor infrastructure reviews and permit fees.* As a condition for issuance of any permit pursuant to this section for new sidewalks, driveways, curbs and gutter sections, the basic plan, permitting services, supervision and inspection fee shall be an amount equal to seven percent of the estimated cost of the new work, but in no case shall the fee be less than \$155.00. As a condition for issuance of any permit under this section for the repair or replacement of existing sidewalks, driveways, curbs and gutter sections, the basic plan fee for initial permitting services, supervision, and inspection services shall be an amount equal to five percent of the estimated cost of the repair or replacement, but in no case shall the fee be less than \$155.00.

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(5) *Sidewalks and driveways.* Where authorization for the construction of sidewalks and driveways within street rights-of-way. required by ordinance, adjacent to any lot for which a residential building is proposed, is included in a building permit, such fee shall be \$81.00 for interior lots and \$122.00 for corner lots. Such fees shall be collected as part of the building permit fee.

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(6) *Supplementary fees.* The fee for a supplementary review and special permit to cover any additional value or scope of work not included in the original permit shall be the difference between the fee paid for the original application or

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permit and the fee which would have been required had the original application or permit included the entire value and scope of the work. The minimum supplemental special permit fee assessed shall be \$1,036.00.

- (7) (7) *Optional preliminary code review meetings or consultation services.* When requested by the applicant, meetings may be conducted to review the requirements and/or codes pertaining to the applicant's project and a fee shall be assessed at the time of the meeting based on the value of the infrastructure improvement as follows:

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- a. a. Project total value less than or equal to \$2,000 no fee
- b. b. Project total value greater than \$2,000 and less than or equal to \$10,000 \$69.00
- c. c. Project total value greater than \$10,000 and less than or equal to \$50,000 \$136.00
- d. d. Project total value greater than \$50,000 \$205.00

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These fees shall be in addition to any other fees required.

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- (8) (8) *Priority project review fee.* When priority status is requested by the applicant, a fee of two times the fee shall be assessed. Eligibility for priority status shall be determined by the director, or director's designate, based on the complexity of the project and availability of staff. These fees shall be in addition to any other fees required.

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- (9) (9) *Changes to reviewed plans.* Review of such changes shall be assessed a fee at the time of the review based on the scope of the review as follows:

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- a. Minor reviews - changes requiring limited review \$54.00
- b. Major reviews - changes requiring review of design elements $\frac{1}{2}$ of basic plan fee

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The director or designee shall have the authority to determine the extent of the changes requested and the fee which shall apply. This fee shall be in addition to any other fees required.

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(10) *Permit extension fee.* Applicant may request an extension of a permit duration and pay a fee sufficient to cover the additional administrative and inspection costs associated with the extension. Extension fees shall be individually calculated based on staff estimates for each permit extension requested.

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(11) *Reinspection fees.* When testing of infrastructure does not pass on the first inspection, a fee of \$75.00 shall be assessed and no further inspections shall be completed until such fee is paid.

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(12) *Enforcement fees.* When enforcement actions are necessary above normal notification of deficiencies, a fee shall be assessed to cover the additional administrative, review and inspection costs of enforcement actions. The enforcement fees shall be individually calculated based on staff estimates for each permit and the additional costs spent on the enforcement. This shall include enforcement actions taken to acquire as-built records required on sewer permits. These fees shall be in addition to any other fees required or court fines imposed and paid to the Court.

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(13) *Payment of fees.* All fees shall be rounded off to the next whole dollar amount. Fees may be waived at the discretion of the director during times of declared emergency.

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(14) *Fee refunds.* For fees specified in this section, if no portion of the application for plan review or permit inspection has commenced, the applicant may request in writing that the application be canceled. The applicant shall then be entitled to a refund of 90 percent of the applicable fee actually paid, except that a full refund will be made when the fee was paid or collected in error. If plan reviews or permit inspections have commenced prior to receipt of a written request for cancellation of the application for a special permit, then a refund will not be made. No refund will be made if a request for a refund has been made more than 30 days after the special permit has expired and no work has commenced.

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(15) *Plans and specifications.*

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a. *a.* Plans for the work shall be prepared by such owners and submitted to the director for his approval. The plans shall indicate the location, extent and character of the proposed work, and include an estimate of the amount of the various materials, installation and services to be incorporated in the work. The plans shall have cross sections, profiles and other information as are ordinarily included in plans prepared in the office of the director for like work. The plans and work shall conform to the standard specifications of the city for public work of like character.

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- b.- All work shall be subject to the direction and supervision and to the satisfaction of the director.

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(e) *Sewer construction.*

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- (1) The grant of a special permit and the construction of the sewers or appurtenances by owner pursuant to this section does not exempt the property served by such improvements from any special assessment issued for the construction of sewers by the city in the districts or in the joint districts now or hereafter established by the city, and the city shall not be bound by the owner's construction of any sewerage improvements to determine whether the properties served by owner's improvements constitute a separate sewer district or districts. All sewers constructed by owner pursuant to this section shall become the property of the city upon acceptance by the director, and the city shall have the right and power to make use of, to reconstruct or to change such sewers to provide for the proper sewerage of the drainage area.

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- (2) Nothing in this subsection shall be construed to mean that the owner or owner's assigns shall be denied the right to use the sewers up to the approved designed capacities, as approved by the director of health and the director. Acceptance of the completed improvements by the director shall be made only after receipt of reproducible as-built plans.

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- (3) The director is hereby authorized to refuse the issuance of building permits or sewer construction permits for any residence, building or structure where such an addition, as determined by the director, would result in exceeding the design capacities of the sewers or sewerage facilities authorized in the special permit. The director may charge appropriate fees for evaluation of sewer connection requests and issuance of sewer connection permits to cover the additional administrative review and permit issuance costs associated with the connection. Connection fees shall be individually calculated based on staff estimates for each permit connection requested.

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(f) *Performance and maintenance bond.*

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- (1) The director shall require the permittee to furnish a performance and maintenance bond, approved by the director of finance, equal to the estimated cost of the work; unless authorization for the construction of sidewalks and driveways within street rights-of-way, required by ordinance, has been granted by inclusion of those improvements in the building permit; and unless the requirement is waived as provided in

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subsection (f)(2) and (f)(3) of this section. The bond shall guarantee performance and completion of the work to the satisfaction of the director, within a time limit specified on the special permit. The following types of work shall also require the bond to guarantee maintenance without the need of any repair for two years:

- a. a. Grading. Formatted: List 3, Indent: Left: 1.5", Hanging: 0.44", Space After: 6 pt, No bullets or numbering
- b. b. Curb, gutters, sidewalks and driveways. Formatted: List 3, Indent: Left: 1.5", Hanging: 0.44", Space After: 6 pt, No bullets or numbering
- c. c. Portland cement concrete and asphaltic concrete pavement, and other street appurtenances. Formatted: List 3, Indent: Left: 1.5", Hanging: 0.44", Space After: 6 pt, No bullets or numbering
- d. d. Sewers and appurtenances. Formatted: List 3, Indent: Left: 1.5", Hanging: 0.44", Space After: 6 pt, No bullets or numbering
- e. e. Stream buffer protection requirements. Formatted: List 3, Indent: Left: 1.5", Hanging: 0.44", Space After: 6 pt, No bullets or numbering
- (2) (2) No maintenance bond is required for street lights or site disturbance activities. Formatted: List 2, Justified, Indent: Left: 1", Hanging: 0.5", No bullets or numbering
- (3) (3) No performance and maintenance bond is required for the repair or replacement of existing sidewalks, curbs or driveways provided the sidewalks, curbs or driveways being permitted are not associated with improvement obligations established under chapter 88 of the Code. Formatted: List 2, Justified, Indent: Left: 1", Hanging: 0.5", No bullets or numbering
- (4) (4) The director shall accept a single bond in accordance with the above for a two-year period, when said bond covers all required improvements and guarantees thereto in accordance with section 88-405-21. Formatted: List 2, Justified, Indent: Left: 1", Hanging: 0.5", No bullets or numbering
- (5) (5) The director may take action against the security if the applicant fails to install, complete or maintain the improvement in accordance with the special permit and the city's adopted standards for the duration of the permit. The director will provide the applicant with ten days written notice before any action is taken against the security. Formatted: List 2, Justified, Indent: Left: 1", Hanging: 0.5", No bullets or numbering
- (g) Indemnification of city during construction. Before any permit is issued pursuant to this section, the permittee shall file a bond conditioned to protect and save harmless the city from all claims for damage or injury or death to other persons by reason of such construction work; or in lieu of such bond the permittee may file with the city a certificate of public liability insurance in favor of the city, Formatted: List 1, Justified, Indent: Left: 0.5", Hanging: 0.5", Tab stops: Not at 0.75"

indemnifying the city for claims for damage or injury. The limits and liability of the bond or insurance shall not be less than the following:

(1) (1) Personal injury, each person: \$100,000.00;

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(2) (2) Personal injury, each occurrence: \$300,000.00;

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(3) (3) Property damage, each occurrence: \$50,000.00; and

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(4) (4) Property damage, aggregate: \$100,000.00;

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with the bond or insurance sureties to be approved by the director of finance.

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(h) *Commencement of work without permit.* Whenever any work for which a special permit is required by this section has commenced without first obtaining a special permit, a special investigation may be made before a special permit is issued for such work and all fees specified for obtaining such permit shall be tripled. This provision shall not be construed as permission to begin work without the required permit.

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(i) *Penalty.*

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(1) Any person, whether owner, representative, contractor, subcontractor or foreman, who shall grade, construct, repair, reconstruct or alter any public street, pavement, curb, gutter, driveway, sidewalk or sewer within any public way, or any public sewer adjacent to or running through any private property within a public right-of-way, without first securing a special permit therefore, issued by the director, shall be deemed guilty of an ordinance violation, and upon conviction thereof shall be fined in an amount not less than \$52.00 and not more than \$518.00.

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(2) For every day after the conviction of any person for the violation, failure, neglect or refusal to comply with any provision, regulation or requirement of this section, that such violation is continued, such person shall be deemed and taken to be guilty of a separate and distinct offense, for which he may be again arrested and tried, and, upon conviction, be punished as in the first offense.

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(j) *Adjustment of fees.* The city manager shall have the authority to adjust the fees listed above, except in subsection (d)(3), to reflect the change in the consumer price index (all items/all urban consumers/Midwest urban) published by the United States Department of Labor, Bureau of Labor Statistics. The adjustments,

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if any, shall be made annually by the city manager in conjunction with the adoption of the annual budget of the city by filing a notice with the city clerk. _____

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Section 5. That the City Manager is hereby directed to begin transition of authorization, enforcement, and regulatory duties concerning the issuance of permits related to streets, alleys, streetlights, streetlight signals, sidewalks, driveways, curbs and gutter, and retaining walls within the right-of-way to the Public Works Department and permits related to grading, site disturbance, stream buffer protection requirements, storm sewers, and sanitary sewers to the Water Services Department, including hiring any additional staff, making any other necessary personnel changes, and securing any necessary funding.

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Section 6. Section 1. That sum of \$ _____ is hereby appropriated from the unappropriated fund balance of the _____ to the following account:

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..end

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Tammy L. Queen
Director of Finance

Approved as to form:

Dustin E. Johnson
Associate City Attorney