

ORDINANCE NO. 020879

Amending Chapter 63, Code of Ordinances, by repealing Sections 63-24 Definitions, 63-32 Permit fee, and 63-34 Issuance of permit and enacting in lieu thereof new Sections of like number and subject matter and increasing by the Consumer Price Index certain fees contained therein.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 63-24 Definitions, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 63-24 and enacting in lieu thereof new section 63-24 Definitions of like number and subject matter.

Sec. 63-24. Definitions.

For the purposes of this 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.

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

Adopted 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.

Agricultural 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.

Applicant means the person who owns the affected property or the person’s authorized agent who submits or is required to submit an application to the director of public works for a site disturbance permit.

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

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

Code means the code of ordinances for the city.

Director means the director of public works of the city or the director's authorized representative.

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

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

Erosion and Sediment Control Plan or 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.

Erosion and Sediment Control Regulations means this Article in its entirety.

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

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

Excavate means the mechanical removal of earth materials.

Fill means the deposit or stockpiling of earth materials.

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

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.

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.

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

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

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

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

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

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.

Site Disturbance Permit means authorization given by the director of public works, noted in Section 63-34, to perform land disturbance activities.

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.

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

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

Vegetative Cover means any grasses, shrubs, trees and other vegetation, which holds and stabilize soils.

Water 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.

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

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

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

Section 2. That Chapter 63-32 Permit fee, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing 63-32, and enacting in lieu thereof new Section 63-32 Permit fee of like number and subject matter and increasing certain fees contained therein.

Sec. 63-32. Permit fee.

Before issuance of a site disturbance permit as defined in this Article, the applicant shall pay a basic Plan fee in accordance with the application and review process indicated in section

63-34. The total fee shall be based on the area of land to be disturbed in accordance with the following:

$$\text{\$210} \times \text{acres disturbed} = \text{permit fee}$$

In no case shall the basic Plan fee be less than \$10.00.

Section 3. That Chapter 63-34 Issuance of permit, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing 63-34, and enacting in lieu thereof new Section 63-34 Application, Review Process, and issuance of permit upon payment of fees, of like number and subject matter and increasing certain fees contained therein.

Sec. 63-34. Application, Review Process, and Issuance of permit upon payment of fees.

- (1) ***Application and review process:*** Any person requesting a site disturbance permit must submit an application to the director. 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 the required permit for the Work within 365 days. If the required permit for the Work has not been procured, then the approval of the application shall be null and void, provided that the director may waive 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 the permit 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.

An applicant shall submit a Plan to the director for QCR and certify that all of the necessary Erosion and Sediment Control Plan components are contained in the Plan as required by the site disturbance 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 \$56.00 for each subsequent submittal for QCR made necessary by applicant's failure to satisfactorily cure the deficiencies.

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 **\\$65 per acre of disturbed area**. If after the initial technical review the director determines that there are technical deficiencies in the Plan, the 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 \$56.00 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 **0.25%** of the initial technical review fee 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 **\$145 per acre of disturbed area** and procure the required permit as provide herein. 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.

The application shall be submitted on a form promulgated by the director and shall include the names, addresses, and telephone numbers of the developer/owner of the property, the applicant and lead contact, the contractors or subcontractors actually performing the land disturbing activity and their respective tasks, the engineer responsible for the preparation of the site map and grading plan, and the engineer responsible for preparation of the erosion and sediment control plan. In addition to the application form, the person shall submit the following items:

- (a) a site map and clearing and grading plan that is in compliance;
 - (b) an erosion and sediment control plan that is in compliance;
 - (c) work schedule;
 - (d) site disturbance permit fees; and
 - (e) security for performance of work, if required.
- (2) ***Issuance of permit upon payment of fees:*** As a condition for issuance of a site disturbance permit, the applicant shall pay a basic Plan fee in an amount equal to **\$210 per acre of disturbed area**, 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 **\$65 per acre of disturbed area** to cover the cost of Plan review services, quality control review (QCR) services, review comment resolution (RCR) services, re-submittal review services, permitting services and **\$145 per acre of disturbed area** to defray the

cost of supervision, and inspection services. In no case shall the basic Plan fee be less than \$10.00.

- (3) **Supplementary fees.** The fee for a supplementary review and site disturbance to cover any additional value not included in the original permit shall be the difference between the fee paid for the original application or permit and the fee, which would have been required, had the original application or permit included the entire value of the Work. The minimum supplemental site disturbance fee assessed shall be \$10.00.
- (4) **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.
- (5) **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 site disturbance, 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 site disturbance has expired and no Work has commenced.
- (6) **Adjustment of fees.** The city manager shall have the authority to adjust the fees listed above to reflect the change in the consumer price index (all items/all urban consumers/Kansas City, Missouri Kansas) published by the United States Department of Labor, Bureau of Labor Statistics. The costs of processing the site disturbance permit must be increased by the CPI Index indicated above. The adjustments, 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. Notwithstanding anything herein to the contrary, the council may modify or waive the imposition of the fees established herein if the council determines that it is in the public interest to do so.

Section 3. All of the provisions enacted by this ordinance shall take effect 10 days after passage.

Approved as to form and legality:

Assistant City Attorney