

THIRD COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 981135

Amending Chapter 60, Code of Ordinances of the City of Kansas City, Missouri, by repealing Sections 60-301 through 60-305; enacting a new Chapter 63, Storm Water Management; amending Chapter 18, by repealing Sections 18-2, 18-9, 18-12, 18-19 and 18-51 and enacting in lieu thereof new sections of like number and subject matter; amending Chapter 62, by repealing Section 62-12 and enacting in lieu thereof a new section of like number and subject matter all dealing with erosion, sediment control and storm water management; and establishing an effective date.

WHEREAS, in 1972, the U.S. Congress passed the Federal Clean Water Act, requiring a permit to discharge water that had any amount of contamination in it. Nationally, the permit is called a National Pollutant Discharge Elimination System (NPDES) permit. Initially, the United States Environmental Protection Agency (USEPA) addressed the most threatening and visible discharges, such as process waste waters, that left industrial plants from pipes and municipal sanitary sewage that received inadequate treatment before being discharged. The regulations did not govern storm water discharges; and

WHEREAS, during the 1970s, environmental groups filed law suits that challenged the exemption of storm water discharges from the regulations. The USEPA lost several lawsuits over the storm water issue. In 1987, the Federal Clean Water Act was amended to include the regulation of storm waters. In Missouri, the USEPA delegated the authority for the NPDES permitting program to the Missouri Department of Natural Resources (MDNR), thus, requiring the state to issue and enforce the permits (10 CSR 20-6.200); and

WHEREAS, in Missouri, the permit is called a Missouri State Operating Permit. Cities in Missouri with populations over 100,000 were required to apply and obtain a Missouri State Operating Permit. The city received its original operating permit through its Storm Water Utility effective June 12, 1992. This is a general permit and it allows the city to discharge from various city projects with land disturbances of five acres or more without applying for individual permits for each project. This permit does not apply to the private sector. Developers are required to apply for and obtain land disturbance permits from MDNR when land disturbances are five acres or more; and

WHEREAS, the city developed and adopted erosion and sediment control specifications (best management practices) to assist in managing its land disturbance program. Both public and private sectors are required to use the specifications in any land disturbance activity they initiate. In 1993, the city approved ordinances 930729, 930730 and 930731 which declared it a nuisance and ordinance violation to allow soil to erode from one property to another as further efforts to administer its land disturbance program; and

WHEREAS, the city has declared that it is the goal of its staff to reply to all application within a ten-day period following receipt of those application; and

WHEREAS, based on the response from the development community, homeowner associations, lake associations and the general public as a whole, the city recognized the need to improve the way it administers its land disturbance program. Article II of this chapter is intended to improve the city's ability to administer its land disturbance program by defining departmental

roles and responsibilities and establishing regulations associated with land disturbance activities;
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section A. That Chapter 60, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Sections 60-301 thru 60-305.

Section B. Enacting a new Chapter 63, to read as follows:

ARTICLE I. STORMWATER UTILITY.

Sec. 63-1. Purpose of article.

(a) The purpose of this article is to protect, preserve and promote the public health, safety and welfare of the citizens of the city from damage from stormwater runoff and floods; to provide funds necessary for the payment of the cost of the administration, management, operation and maintenance, planning and engineering of the stormwater sewers and appurtenances that are necessary for the operation of the city's stormwater sewerage system and for payment of the cost of construction, reconstruction, enlargement and replacement of stormwater system sewers and appurtenances; for the payment of the principal and interest upon bonds issued and outstanding, and to be issued, for sewer facilities; and for the acquisition of land for such purposes.

(b) It is the intent of the city council, in enacting this article, to:

- (1) Promote public health, safety and welfare by planning for the movement of emergency vehicles during flooding periods and minimizing flood losses and the inconvenience and damage resulting from uncontrolled and unplanned stormwater runoff in the city;
- (2) Provide for the construction, reconstruction, enlargement, maintenance and replacement of such stormwater sewers as are necessary or desirable in order to relieve sewers carrying sanitary and stormwater loads of undue loads or in order to permit the efficient operation of any such sanitary sewers for the collection, treatment and disposal of sewage and domestic or industrial waste, including combined storm and sanitary sewage systems;
- (3) Establish a master plan for stormwater and flood management and its implementation, including, without limitation, a coordinated program of creating upstream ponding or temporary detention of stormwaters;
- (4) Establish a stormwater and flood management utility to coordinate, design, construct, manage, operate and maintain the stormwater and flood management system;
- (5) Establish reasonable stormwater and flood management fees based on the use of stormwater and drainage facilities; and
- (6) Encourage and facilitate urban water resources management techniques,

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including, without limitation, detention of stormwater and floods, reduction of the need to construct storm sewers, reduction of pollution and enhancement of the environment.

Sec. 63-2. Stormwater utility division; applicability of stormwater fee.

(a) There is hereby created a stormwater utility division in the department of water services under the control of the director of water services, who is empowered to implement the provisions of this article.

(b) The stormwater utility hereby created shall be responsible for the management of the stormwater sewers and appurtenances that are a part of the city's sewerage system.

(c) Except as provided in section 60-5, the water or sewer consumer of record shall pay the stormwater fee prescribed by section 60-2.

Sec. 63-3. Collection and amount of stormwater fees.

The stormwater fees shall be billed and collected with the water bill as provided in article I of this chapter and in chapter 78.

Sec. 63-4. Master drainage plan.

(a) The director of water services shall develop a master drainage plan for the city, based on engineering studies, that indicates the location of all drainage facilities in the city, including those facilities that currently exist and those determined to be needed and that are intended to be constructed in the future. The plan shall include all major drainageways that directly or indirectly affect drainage within the city, all drainage basins in the city, and all natural drainage courses and other drainage facilities required to provide for the drainage and management of surface waters within the drainageways and basins and to carry such waters to designated points without overflow or discharge. The plan may also show any other information that the director deems desirable. The director shall solicit public participation during the formulation of the master drainage plan and other phases of implementation of the storm drainage and flood management program provided in this article.

(b) The purpose of the master drainage plan prescribed by this section is to identify and alleviate present and future drainage and flooding problems in the city by means of presenting in an orderly fashion the general data and information essential in understanding the relationship between rainfall and storm runoff. The master drainage plan serves as the official designation of drainage facilities and drainageways and basins shown thereon and may be altered from time to time to conform to existing conditions.

(c) Any time a project is proposed by the city to implement the master drainage plan, the director shall hold a public hearing in the neighborhood where the project is to be constructed, after publishing notice in a newspaper of general circulation.

(d) The director may undertake supplementary studies to determine the estimated cost of constructing the drainage facilities shown on the master drainage plan, including the expense of

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any necessary land acquisition.

(e) The city council shall adopt the master drainage plan by resolution. No substantial modifications thereof may be made unless the council first approves them.

(f) After adoption of the master drainage plan, the director of records shall retain a copy on file for public inspection during normal business hours.

(g) In the annual proposed city budget, the director shall submit to the city council a proposed budget for construction of drainage facilities, containing a statement of all amounts currently in the stormwater and flood management account, an estimate of anticipated revenues for the ensuing budget year, and a list of the proposed projects to be constructed or developed.

Sec. 63-5. Nonliability of city for damage caused by flooding.

Larger floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed and maintained by funds made available under this article. This article does not imply that property liable for the fees established in this article will always be free from stormwater flooding or flood damage. This article shall not create a liability on the part of, or a cause of action against, the city or any officer or employee thereof for any flood damage that may result from storms or the runoff thereof. This article does not purport to reduce the need for obtaining flood insurance.

Secs. 63-6--63-20. Reserved.

ARTICLE II. EROSION AND SEDIMENT CONTROL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 63-21. Title and authority.

This Article shall be known as the Kansas City, Missouri Erosion and Sediment Control Regulations and may be cited as “Erosion and Sediment Control Regulations” or “Regulations”. The director of public works shall be responsible for the administration and enforcement of this Article.

Sec. 63-22. Purpose of Article.

The purpose of this Article is to promote and protect the public interest by regulating land disturbance, land fill, and soil storage in connection with the clearing and grading of land for construction related or other purposes. It is also the purpose of this Article to encourage responsible development and minimize the cost to the development community as a result of the regulations in this Article.

This Article establishes administrative, implementation, and enforcement procedures for the protection and enhancement of the water quality of watercourses, water bodies, and wetlands by controlling erosion, sedimentation, and related environmental damage caused by construction-related or other activities.

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Sec. 63-23. Other laws.

Neither this Article nor any administrative decision made under it exempts the applicant or any other person from other requirements of this code, state and federal laws, or from procuring other required permits (ex., state land disturbance permits), or limits the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the applicant or any person arising from the activity regulated by this Article.

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 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 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.

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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 hold 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.

DIVISION 2. ADMINISTRATION

Sec. 63-25. Regulated activities.

No person may clear, grade, excavate, fill, store, or dispose of soil and earth materials or perform any other land disturbing activity without first obtaining a site disturbance permit from the director as set forth in this chapter except as noted in Sec. 63-26 of this Article.

Sec. 63-26. Exemptions.

Persons performing land disturbance activities that meet any of the criteria below are not required to apply for a site disturbance permit pursuant to this chapter:

- (1) *Land disturbances less than 1.0 acre but greater than 300 square feet.* In those cases, the land disturbance activity is required to comply with the city's adopted standards and the person shall install erosion and sediment control measures. If an application for building permit has been submitted or an application is required to be submitted to perform the land disturbance activity, the director of codes administration will be responsible for administering and enforcing the city's adopted standards through the city's building code, chapter 18 of the Code of Ordinances. If an application for building permit has not been submitted or an application is not required to perform the land disturbance activity, the director of environmental management, with assistance from the director of neighborhood and community services department, will be responsible for administering and enforcing the city's adopted standards through the city's solid waste and nuisance codes;
- (2) *Land disturbances less than or equal to 300 square feet.* In those cases, the land disturbance activity does not have to comply with the city's adopted standard, however, the activity is subject to the city's solid waste and nuisance codes;
- (3) *Land disturbance activities by city departments.* In those cases, the department is required to comply with the requirements of the city's general permit, if

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applicable, the city's adopted standards and the city's Building Code;

- (4) *Home gardens.* Home gardening operations including plowing or tilling of land for the purposes of growing flowers and/or vegetables;
- (5) *Work to correct or remedy emergencies.* This includes situations that pose an immediate danger to life or property, or substantial flood or fire hazards; and
- (6) *Routine agricultural crop management practices.*

Sec. 63-27. Erosion and sediment control design criteria and specifications.

The director shall adopt and maintain erosion and sediment control design criteria and performance standards and specifications to assist in the administration of the land disturbance program. The erosion and sediment control design criteria and specifications shall be based, but not limited to the following principles:

- (1) Fit the development to existing site conditions.
- (2) Minimize the extent and duration of exposure.
- (3) Protect areas to be disturbed from storm water runoff.
- (4) Stabilize disturbed areas.
- (5) Keep runoff velocities low.
- (6) Retain sediment on the site.
- (7) Inspect and maintain control measures.
- (8) Performance measures and outcomes.

Sec. 63-28. Review for compliance.

Any person that requests a site disturbance permit must first submit the following items to the director for review to determine compliance with the city adopted standards:

- (1) proposed site map and grading plan;
- (2) proposed erosion and sediment control plan;
- (3) work schedule; and
- (4) any supplementary materials related to the site disturbance as required by the director.

Site disturbance permits may be issued for each land disturbance phase of a specific site. The

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site disturbance permit when issued in phases shall be a separate permit for each land disturbance phase. Documents submitted must be sealed by a Registered Professional Engineer licensed in the State of Missouri. The director shall review the submitted documents for compliance with the city's regulations and adopted standards. After reviewing the documents, the director shall determine whether or not the documents submitted are in compliance with the city's regulations and adopted standards. If the director finds that the documents are in compliance, the engineer who submitted the documents shall be advised in writing and may request a site disturbance permit in accordance with the requirements set forth in Section 63-34 of this Article. If the director finds that documents are not in compliance with the city's regulations and adopted standards, the director shall advise the engineer in writing which elements of the submitted documents are not in compliance. When documents are determined to be in compliance, the determination does not imply that the City is guaranteeing specific outcomes nor is the city accepting any responsibility for the documents submitted.

Sec. 63-29. Site map and grading plan.

The site map and grading plan shall be in compliance with the city's adopted standards and shall contain all of the following information:

- (1) Existing and proposed topography of the site taken at not more than a two-foot contour interval over the entire site;
- (2) Contours extend a minimum of one-hundred feet off-site, or sufficient to show on/off-site drainage;
- (3) Site's property lines shown in true location with respect to the plan's topographic information;
- (4) Location and graphic representation of all existing and proposed natural and man-made drainage facilities;
- (5) Location, graphic representation and legend of soil types.
- (6) Location and graphic representation of proposed excavations and fills, of on-site storage of soil and other earthen material, and on-site disposal;
- (7) Location and legend of existing vegetation cover the location and legend of vegetation cover to be left undisturbed;
- (8) Location of surface runoff and erosion and sediment control measures;
- (9) Quantity of soil or earthen materials in cubic yards to be excavated, filled, stored, or otherwise utilized on-site;
- (10) Proposed sequence of excavation, filling, and soil or earthen material storage and disposal; and
- (11) The signature and seal of a Registered Professional Engineer licensed in the State

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of Missouri.

Sec. 63-30. Erosion and sediment control plan.

The following information shall be provided with respect to conditions existing on-site during land disturbing or filling activities or soil storage, and after final structures and improvements have been completed:

- (1) Maximum surface runoff from the site, calculated using the adopted standard;
- (2) Sediment yield, calculated using the adopted standard;
- (3) A delineation and brief description of the measures undertaken to retain sediment from the site, including, but not limited to, designs and specifications for berms and sediment detention basins, and a schedule for maintenance and upkeep;
- (4) A delineation and brief description of the surface runoff and erosion control measures to be implemented, including, but not limited to, types and method of applying mulches, designs and specifications for diverters, dikes and drains, and a schedule for their maintenance and upkeep;
- (5) A delineation and brief description of the vegetative measures to be used, including, but not limited to seeding methods, the type, location and extent of pre-existing undisturbed vegetation types and vegetation to remain and a schedule for maintenance and upkeep;
- (6) Proposed conditions of the site in accordance with the phases outlined in the adopted standards.
- (7) Alternative methods of stabilizing the site when either seeding was not performed in accordance with the schedule, or was performed and was not effective;
- (8) The location and description of each temporary and permanent erosion and sediment control measure; and
- (9) Estimated duration of the permit as defined in Section 63-35.

Sec. 63-31. Work schedule.

The director shall require the applicant to submit a master work schedule of construction activities for the development where the land disturbance activity is proposed. The master work schedule shall provide, at minimum, the following information:

- (1) Proposed clearing and grading schedule;
- (2) Proposed schedule for installation of temporary and permanent erosion and sediment control measures;
- (3) Proposed schedule for all construction activity; and

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- (4) Estimated duration of site disturbance permit as defined in Section 63-35 of this Article.

The applicant shall be allowed to modify the proposed schedules required to be provided under this section in the event circumstances dictate such deviation and after the applicant has obtained approval from the director.

Sec. 63-32. Permit fee.

Before issuance of a site disturbance permit as defined in this Article, the applicant shall pay a fee to cover the cost of administration, plan review and inspection services associated with the site disturbance permit. The fee shall be based on the area of land to be disturbed in accordance with the following:

\$200 x acres disturbed = permit fee

Sec. 63-33. Security for performance of work.

The director shall require the applicant to provide security equal to the estimated cost to install and maintain the approved erosion and sediment control measures for the duration of the site disturbance permit as defined in Section 63-35 of this Article if the land disturbance is within the watershed of a public or private lake or pond. The applicant has two options to secure the performance of work:

- (1) *Option 1: Performance Bond.* The applicant may furnish a performance bond, approved by the director of finance; or
- (2) *Option 2: Letter of Credit Agreement.* The applicant may enter into a letter of credit agreement with the city, whereby the applicant will submit a letter of credit from a bank approved by the director of finance.

Sec. 63-34. Issuance of permit.

Any person requesting a site disturbance permit must submit an application to the director. 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 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:

- (1) a site map and clearing and grading plan that is in compliance;
- (2) an erosion and sediment control plan that is in compliance;
- (3) work schedule;

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- (4) site disturbance permit fees; and
- (5) security for performance of work, if required.

Sec. 63-35. Duration of permit.

(a) The site disturbance permit shall be valid from the time that it is issued until the site is stabilized and erosion and sediment control measures are no longer necessary. The site will be considered stabilized when either perennial vegetation, pavement, buildings, or structures using permanent materials cover all areas that have been disturbed. In order to terminate the site disturbance permit, the applicant shall submit a request to terminate permit form to the Director. The Director will then inspect the site and make a determination as to whether the permit can be terminated. The applicant will be notified in writing of the determination.

(b) If the applicant sells the property before the termination of the land disturbance permit issued under this Article, the permit may be assigned to the new owner, if such assignment is approved in writing by the director.

(c) If the applicant sells any portion of the property before the termination of the land disturbance permit issued under this Article, the applicant will remain responsible for that portion until one of the following events occur:

- (1) the new owner of the property obtains a land disturbance permit; or
- (2) the new owner of the property obtains or is required to obtain a building permit. When a new owner has contiguous lots totaling less than one acre and obtains or is required to obtain a building permit they may design an erosion and sediment plan for the contiguous lots as approved by the director of codes administration.

Sec. 63-36. Coordination with other permits.

When a person is developing a site, and a site disturbance permit is required in accordance with Sections 63-25 and 63-26 of this Article, no other construction permits shall be issued to make improvements on that site until the person has secured the site disturbance permit for the same site. This includes all permits issued by the director or any other city department. The city may simultaneously issue a site disturbance permit and a grading permit.

DIVISION 3. IMPLEMENTATION

Sec. 63-37. Installation of control measures.

The applicant shall notify the director before any land disturbance activities are performed or any erosion and sediment control measures are installed. The applicant shall ensure that all erosion and sediment control measures are installed in accordance with the erosion and sediment control plan and the city's adopted standards.

Sec. 63-38. Inspection of the site.

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The applicant shall inspect the land disturbance site at least every fourteen (14) days, or more frequently if required on the plan, and within twenty-four hours following each rainfall event of 1/2" or more within any twenty-four hour period. For disturbed areas that have not been stabilized, all erosion and sediment control measures shall be inspected for proper installation, operation and maintenance. Locations where storm water leaves the site shall be inspected for evidence of erosion or sediment deposition. Any deficiencies shall be noted in a report of the inspection.

Inspection reports shall be kept by the applicant and shall be submitted to the director upon request. The inspection report shall include the following minimum information:

- (1) Inspector's name;
- (2) Date of inspection;
- (3) Observations relative to the effectiveness of the erosion and sediment control measures;
- (4) Actions necessary to correct deficiencies;
- (5) Sampling results, if taken; and
- (6) Signature of applicant or person performing the inspection if duly authorized to do so.

The director shall also perform regular inspections of the land disturbance site to ensure compliance with the erosion and sediment control plan for the site and the city's adopted standards.

Sec. 63-39. Maintenance of control measures.

The applicant shall at all times maintain all erosion and sediment control measures in good order and in compliance with the erosion and sediment control plan for the site and with the city's adopted standards, for the duration of the permit as defined in Section 63-35 of this Article. In determining the Applicant's compliance with the erosion and sediment control plan for the site, the director shall take into consideration any results the applicant has obtained through sampling.

Sec. 63-40. Sampling.

The applicant shall have the option of including a system of regular sampling by individuals approved to perform such sampling by the City of Kansas City as a part of the applicant's Erosion and Sediment Control Plan. The director may require sampling to determine the effectiveness of the erosion control plan or to obtain information to investigate complaints regarding the site. Sampling shall not be the only item reviewed to determine compliance with the erosion and sediment control plan for the site. The director may also perform sampling.

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Sec. 63-41. Removal of control measures.

The applicant shall receive the director's approval before any structural erosion and sediment control measure identified on the plans is removed or made ineffective. Removal of erosion and sediment control measures must be performed in the manner described in the erosion and sediment control plan and in accordance with the city's adopted standards. When determining whether an erosion and sediment control measures may be removed or made ineffective, the director shall take into consideration testing results furnished by the applicant.

DIVISION 4. ENFORCEMENT

Sec. 63-42. Enforcement policy.

The director shall handle enforcement through the normal routine activities that include receiving inspection reports from the applicant, inspecting the site, communicating, negotiating, and written warnings to the applicant to resolve issues of non-compliance. However, if these methods fail, the director shall proceed with the methods as defined in Section 63-43 of this Article.

Sec. 63-43. Suspension or revocation of permit.

If normal routine enforcement activities, as defined in Section 63-42, fail to correct any non-compliance issue, the director shall follow the procedures outlined in this section before any action is taken against the security as provided under Section 63-33.

- (1) The director shall suspend the site disturbance permit and issue a written stop work order, and the applicant shall cease all work on the site, except work necessary to remedy the cause of the suspension, upon notification of such suspension when:
 - a. Applicant fails to submit reports timely and in accordance with Section 63-38; or
 - b. Inspection by the director reveals the site is not in substantial compliance with the erosion and sediment control plan; or
 - c. Applicant fails to comply with an order to bring the site into compliance with the permit within time limits imposed by the director.
- (2) The director shall revoke the site disturbance permit and issue a stop work order if the applicant fails or refuses to cease work. A stop work order issued pursuant to this section does not affect building permits which are issued by director of codes administration. However, the director of codes administration may issue a stop work order in accordance with Chapter 18 of the City Code of Ordinances.
- (3) The director shall reinstate a suspended site disturbance permit upon the applicant's correction of the cause of the suspension.

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(4) The director may not reinstate a revoked permit.

Sec. 63-44. Action against the security.

The director may take action against the security if the applicant fails to install or maintain the erosion and sediment control measures in accordance with the erosion and sediment control plan for the site and the city's adopted standards for the duration of the permit as defined in Section 63-35. The director will provide the applicant with ten (10) days written notice before any action is taken against the security, and if during that ten (10) day period the applicant bring control measures into compliance with the Plan, no action shall be taken against the security.

Sec. 63-45. Fines and penalties.

Any person allowing or performing a land disturbance without obtaining a Site Disturbance Permit as required by this Article, or working with a revoked or suspended permit, upon conviction, shall be punished by a fine of not less than \$50.00 and not more than \$500.00, or by imprisonment in the municipal correctional institution for a period not to exceed six months, or be punished by both fine and imprisonment; provided that each day's violation thereof shall be a separate offense for the purposes of this article.

Sec. 63-46. Additional Notice.

A copy of all written notices sent to the applicant pursuant to or in regard to this article, including, without limitation, written communications, warnings and notices pursuant to Sections 63-42, 63-43 and 63-44 shall be simultaneously sent to the party listed as the developer on the application referred to in Section 63-34. Nothing in this Section 63-46 shall create any right for the applicant or any other interested party to object to, challenge, delay or invalidate any action of the director on the basis of lack of notice.

Section C. That Chapter 18, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Sections 18-2, 18-9, 18-12, 18-19 and 18-51, and enacting in lieu thereof new sections of like subject matter to read as follows:

Sec. 18-2. Purpose and Scope of chapter.

(a) *Purpose.* This code shall be construed to secure its expressed intent, which is to benefit the public safety, health and welfare, insofar as they are affected by building construction, through structural strength, adequate means of egress facilities, sanitary equipment, light and ventilation, erosion and sediment control, and fire safety; and in general to promote safety to life and property from hazards incident to the construction, design, erection, installation, alteration, addition, removal, demolition, replacement, location, relocation, moving, quality of materials or use and occupancy, operation and maintenance of buildings, structures or premises. The purpose of this code is not to create or otherwise

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establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

(b) *Scope.* Article I of this chapter provides the administrative procedures to be followed by all persons engaged in the construction, design, erection, installation, alteration, addition, removal, demolition, replacement, location, relocation, land disturbance, moving, quality of materials, or use and occupancy, operation and maintenance of buildings, structures or premises, as regulated by articles II through VIII of this chapter.

Sec. 18-9. Powers and duties of director of codes administration.

(a) *Generally.* The director of codes administration shall enforce this code. For such purposes, the director shall have the powers of a law enforcement officer to issue written orders in the enforcement of this code and deem unsafe conditions as prescribed in section 18-10. The director of codes administration shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code.

(b) *Right of entry.* When it is necessary to make an inspection or to enforce the provisions of the building code, or any other code, ordinance, law, regulation or administrative order within the authority of the director of codes administration to enforce, or whenever the director of codes administration or his/her authorized representative has reasonable cause to believe that there exists in any building any condition which is contractor to the building code, or any other code, ordinance, law, regulation or administrative order within the authority of the director of codes administration to enforce, or makes the building or premises unsafe, dangerous or hazardous the director of codes administration or his/her authorized representative may enter the building or premises during normal work hours or, in the case of an emergency at any reasonable time to inspect or to perform any duty imposed upon the director of codes administration by the building code; provided, if such property be occupied, the director of codes administration or his/her authorized representative shall first present proper credentials and request and obtain permission to enter before entering the building or premises. Reasonable effort must be made to locate the owner or other persons having charge or control of the property when seeking permission for entry.

(1) If no consent has been given to enter or inspect any building or premises, no entry or inspection shall be made without the procurement of a warrant from the judge presiding in the Ninth Division or, if that judge is not available, from any other judge presiding in the municipal division, Kansas City, 16th Judicial Circuit Court of Missouri. The court may consider of the following factors in its decision as to whether a warrant shall issue:

a. Eyewitness account of violation.

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- b. Citizen complaint(s).
 - c. Tenant complaint(s).
 - d. Plain view violations.
 - e. Violations apparent from city records.
 - f. Nature of alleged violation, the threat to life or safety and imminent risk of significant property damage.
 - g. Previous unabated violations in the building or on the premises.
- (2) Cause supporting issuance of a warrant shall be deemed to exist in light of reasonable legislative and administrative standards which show that there is reason to believe that a condition of nonconformity exists with respect to a building or premises in violation of the provisions of the building code and based upon at least two of the factors set forth in subsection (a)(1).
- (3) The director of codes administration or his/her authorized representative may enter the premises without consent or a search warrant to make an inspection or enforce any of the provisions of this code only when an emergency exists as prescribed in section 18-10(f) of the building code, or when the premises are abandoned.
- (4) If a complaint in writing is filed by the director of codes administration or an authorized representative, any police officer, deputy, or city attorney of the city, with the municipal division judge of the circuit court, stating that there is probable cause to believe there exists in a building or structure more particularly described therein, a violation or violations of provisions of this code, and is within the territorial jurisdiction of the city, and if such complaint is verified by the oath or affirmation stating evidential facts from which such judge determines the existence of probable cause, then such judge shall issue a search warrant directed to the authorized person to search the structure or premises therein described for the purposes requested. Such search warrant may be executed and returned only within ten days after the date of its issuance. The person authorized to search shall make a return promptly after concluding the search, and such return shall contain an itemization of all violations of this code discovered pursuant to such search. Refusal to honor a search warrant and permit inspection of the premises shall constitute an ordinance violation. Execution of a search warrant, under this section, shall not be by forcible entry.
- (5) Unless emergency conditions exist, or until a notice of violation and a reasonable opportunity to correct the violation is afforded the person, a summons shall not be served upon a resident, property owner, or other responsible person, which alleges a violation of this code based upon conditions discovered incidental to, and solely as a result of, conducting an investigation pursuant to the authority of a search warrant, but which is not the subject of the search warrant.

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(c) *Stop orders.* Whenever any work is being done contrary to the provisions of this code, other pertinent laws or ordinances within this code, or the code of ordinances for the city, the director of codes administration may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, or on any persons owning, leasing, maintaining or occupying premises where work is being done and any such persons shall forthwith stop such work until authorized by the director of codes administration to proceed with the work.

(d) *Occupancy violations.* Whenever any building or structure or building service equipment therein regulated by this code is being used contrary to the provisions of such codes, the director of codes administration may order such use discontinued by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the director of codes administration after receipt of such notice to make the structure, or portion thereof, comply with the requirements of such code. Failing to discontinue such use when ordered is a violation of this code. Unless authorized by the director of codes administration, removing a posted notice or sign indicating that a structure is not to be occupied is a violation of this code.

(e) *Liability.* The director of codes administration or an authorized representative charged with the enforcement of this code, acting in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not be rendered personally liable for damages that may accrue to persons or property as a result of any such official act or by reason of any act or omission in the discharge of such official duties. Any suit brought against the director of codes administration or employee because of such act or omission, performed in the enforcement of any provision of this code or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the department of codes administration, shall be defended, under the terms of the cumulative claim reserve fund, by the city until final termination of such proceedings. Any judgment resulting therefrom shall be assumed by the city, under the terms of the cumulative claim reserve fund. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building, structure or building service equipment therein for any damages to persons or property caused by defects, nor shall the department of codes administration or the city be held as assuming any such liability by reason of the inspections authorized by this code or approvals issued under this code.

(f) *Cooperation of other officials and officers.* The director of codes administration may request, and shall receive, the assistance and cooperation of other city officials so far as is required in the discharge of the duties required by this code or other pertinent law or ordinance.

(g) *Authority to disconnect utilities.* The director of codes administration or the director's authorized representative shall have the authority to disconnect any utility service or energy supplied to the building, structure or building service equipment therein regulated by this code in case of emergency where necessary to eliminate an immediate hazard to life or property. The director of codes administration shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection

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immediately thereafter.

(h) *Authority to condemn building service equipment.*

- (1) Whenever the director of codes administration ascertains that any building service equipment regulated in articles II through VI of this chapter has become hazardous to life, health, property or becomes unsanitary, he may order in writing that such equipment be either removed or restored to a safe or sanitary condition, whichever is appropriate. The written notice itself shall fix a time limit for compliance with such order. No person shall use or maintain defective building service equipment after receiving such notice.
- (2) When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefor shall be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.
- (3) When any building service equipment is maintained in violation of articles II through VI of this chapter and in violation of any notice issued pursuant to the provisions of this section, the director of codes administration may institute any appropriate action to prevent, restrain, correct or abate the violation.

(i) *Connection after order to disconnect.* No person shall make connections from any energy, fuel or power supply or supply energy or fuel to any building service equipment which has been disconnected or ordered to be disconnected by the director of codes administration or the use of which has been ordered to be discontinued by the director of codes administration until the director of codes administration authorizes the reconnection and use of such equipment.

(j) *Building numbers.* The director of codes administration is authorized to promulgate standards by which buildings are numbered and to assign or reassign numbers and addresses according to those standards.

(k) *Rules and regulations.* The director of codes administration is authorized to make and promulgate reasonable and necessary rules and regulations to provide for the efficient administration of this code, and to implement the substantive and procedural requirements of this code. A copy of rules and regulations shall be filed in the office of the director of records.

Sec. 18-12. Violations.

(a) It shall be unlawful for any person, firm, corporation, partnership, association, organization or governmental agency properly regulated by the city to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, maintain or own, or cause land disturbance activities for any building, premises, sign, structure or building service equipment or cause or permit the same to be done in violation of this code, or fail to obey any order issued under the authority of the director of codes administration, or fail to maintain a valid certificate of inspection for elevator equipment, underground spaces, communication towers, or parking structures as required in this code, or fail to comply with the duties and responsibilities of a licensed or registered contractor or licensed or registered supervisor.

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(b) Any person, firm, corporation, partnership, association, organization or governmental agency properly regulated by the city violating any of the provisions of this code shall be deemed guilty of an ordinance violation. Each and every day or portion thereof during which any violation of any of the provisions of this code is committed, continued or permitted shall be a separate offense.

(c) The responsible individual(s) of a corporation shall include any officer of a corporation or the person in charge of the local office of such corporation,

Sec. 18-19. Inspections generally.

(a) *Authority of director of codes administration; duties of permittee.*

(1) All construction or work for which a permit is required under this chapter shall be subject to inspection by the director of codes administration, and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the director of codes administration. In addition, certain types of construction shall have continuous inspection as specified in section 18-20.

(2) Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of any other ordinances. Inspections presuming to give authority to violate or cancel the provisions of this code or of any other ordinances shall not be valid.

(3) It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the director of codes administration nor the city shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

(4) A survey of the lot may be required by the director of codes administration to verify that the structure is located in accordance with approved plans.

(5) It shall be the duty of the permit applicant to install and maintain effective erosion and sediment control measures as specified in section 18-51, appendix chapter 70, section 7013.

(b) *Inspection requests.* It shall be the duty of the person doing the work authorized by a permit to notify the director of codes administration that such work is ready for inspection. The director of codes administration may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing or by telephone at the option of the director of codes administration.

(c) *Approval of successive portions of work, final inspection.*

(1) Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the director of codes administration. The director of codes administration, upon notification, shall make the requested inspections and shall either indicate that the portion of the construction is

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satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the construction fails to comply with this code. Any portions which do not comply shall not be covered or concealed until authorized by the director of codes administration.

- (2) There shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

(d) *Required inspections.*

- (1) Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the director of codes administration.
- (2) The director of codes administration, upon notification from the permit holder or permit holder's agent, shall make following inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his/her agent wherein the construction fails to comply with this code:
 - a. *Foundation inspection.* A foundation inspection is to be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. All materials for the foundation shall be on the job; except, where concrete is ready-mixed in accordance with U.B.C. Standard No. 26-13, the concrete need not be on the job. Where the foundation is to be constructed of approved treated wood, additional inspections may be required by the director of codes administration.
 - b. *Concrete slab or underfloor inspection.* A concrete slab or underfloor inspection is to be made after all in-slab or underfloor building service equipment, conduit, piping accessories and other ancillary equipment items are in place but before any concrete is poured or floor sheathing installed, including the subfloor.
 - c. *Rough-in inspection.* A rough-in inspection is to be made after the roof, all framing, fire blocking and bracing are in place and all pipes, chimneys and vents are complete and the rough electrical, plumbing and heating wires, pipes and ducts are approved.
 - d. *Fire resistive rated assembly.* A fire resistive rated assembly inspection is to be made at such time so as to verify that the construction of each fire resistive rated assembly is in accordance with its listing.
 - e. *Final inspection.* A final inspection is to be made after all work under permit has been completed for the building or tenant space.
- (3) Should it be found that required erosion and sedimentation control measures have not been installed properly, the director of codes administration

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may refuse any inspection requests for work requiring inspections until such time as the site complies with the requirements of this code. Should it be found that the installed erosion and sediment control measures are ineffective or are not being maintained properly, the director of codes administration shall give notice to the permit holder. Subsequent inspections may be refused if the erosion and siltation control measures are ineffective, or not being maintained.

(e) *Other inspections.* In addition to the called inspections specified in subsection (d) of this section, the director of codes administration may make or require other inspections of any construction work to ascertain compliance with the provisions of this code or any other ordinances.

(f) *Building service equipment inspections.* The requirements of this section shall not be considered to prohibit the operation of any building service equipment installed to replace existing building service equipment serving an occupied portion of the building if a request for inspection of such building service equipment has been filed with the director of codes administration not more than 48 hours after such replacement work is completed, and before any portion of such building service equipment is concealed by any permanent portion of the building.

(g) *Periodic inspections.*

(1) *Elevators.*

- a. *Generally.* All elevator equipment, vertical and inclined, shall be inspected as required by article VI of this chapter.
- b. *Issuance of certificate of inspection.* Where the inspections and tests indicate that the installation is in a safe operating condition, and, in the case of a new installation, conforms to this article, and the plans and specifications are filed, the director of codes administration shall issue a certificate of inspection to the owner of the elevator or the owner's agent. Such certificate shall be kept posted on the elevator. In the case of escalators and manlifts, such certificate shall be posted in a conspicuous place adjacent to the entrance of each escalator or manlift. No elevator, dumbwaiter, escalator, moving walk, workmen's hoist, manlift, chairlift or wheelchair lift which is covered by this code shall be used without such certificate. The owner, tenant, occupant or maintainer of property on which elevator equipment is being operated shall be responsible for the following use of such elevators: Freight elevators shall be ridden by the operator and freight handler persons only, and no-rider elevators shall not be ridden by persons.
- c. *Revocation of certificate of inspection.* Any certificate issued may be revoked if it is determined that the equipment is not in compliance with this code or that the fee for any required inspection or test has not been paid.

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- d. *Fees for tests and inspections.* Fees for tests and inspections shall be as provided in section 18-18 of this Code.
- e. *Limited certificates.* The director of codes administration may permit the temporary use of any equipment regulated by this code during the installation, alteration or repair, under the authority of a limited certificate issued for each class of service. Such limited certificate shall not be issued until the equipment has been tested under contract load and the car or counterweight safeties, terminal-stopping devices and other safety equipment has been tested and found to be safe for the class of service. Equipment operating under the authority of a limited certificate may be shut down or be subject to a double inspection fee if repairs or other requirements have not been completed in a timely manner.

(2) *Underground space.*

- a. *Generally.* All new and existing underground spaces shall be inspected for structural adequacy at least once every five years. A report of the findings of such inspection shall be submitted to the director of codes administration to verify the conditions found on each occasion. The report shall be certified by a professional engineer registered to practice in the state. The report shall state that, in the opinion of the professional engineer, the underground space is safe and in such condition that it is capable of carrying the loads for which it was originally designed without any repairs or modifications, or what areas require repair before such certification can be given.
- b. *Issuance of certificate of inspection.* Where the inspection indicates that the installation is in a safe operating condition, and, in the case of a new installation, conforms to this code and this article, a certificate of inspection shall be issued to the owner or the owner's agent. Such certificate shall be maintained in an appropriate location.
- c. *Revocation of certificate of inspection.* Any certificate issued may be revoked if it is determined that the installation is not in compliance with this code or that the fee for certificate of inspection has not been paid.
- d. *Fee for certificate of inspection.* Fees for certificate of inspection shall be as provided in section 18-18 of this Code.

(3) *Communication towers for television and radio transmission or reception.*

- a. *Generally.* All new and existing structures shall be inspected for structural adequacy at least once every five years. A report of the findings of such inspection shall be submitted to the director of codes administration to verify the conditions found on each occasion. The report shall be certified by a professional engineer registered to practice in the state. The report shall state that, in the opinion of the professional engineer, the structure is

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safe and in such condition that it is capable of carrying the loads for which it was originally designed without any repairs or modifications, or what areas require repair before such certification can be given.

- b. *Issuance of certificate of inspection.* Where the inspection indicates that the installation is in a safe operating condition, and, in the case of a new installation, conforms to this code and this article, a certificate of inspection shall be issued to the owner or the owner's agent. Such certificate shall be maintained in an appropriate location.
- c. *Revocation of certificate of inspection.* Any certificate issued may be revoked if it is determined that the installation is not in compliance with this code or that the fee for certificate of inspection has not been paid.
- d. *Fee for certificate of inspection.* Fees for certificate of inspection shall be as provided in section 18-18 of this Code.

Sec. 18-51. Adoption of Uniform Building Code (1991); amendments.

The Uniform Building Code (1991), promulgated by the International Conference of Building Officials, is adopted and incorporated in this article by reference as if fully set forth, except as it is amended by the following provisions of this section. Provisions of this article are in addition to the provisions of the Uniform Building Code. The following provisions coinciding with provisions of the Uniform Building Code supersede, or delete, when indicated, the corresponding provisions of the Uniform Building Code:

Part I, chapters 1, 2 and 3, Administrative, is deleted. See article I of this chapter.

Section 509. Pedestrian Walkways.

- (h) *Pedestrian walkways over public streets.* Pedestrian walkways in public rights-of-way shall be subject to building accessibility requirements in chapter 31 and to the approval of the city evidenced by an ordinance passed indicating such approval.

Section 1101. Division 2. Tanks and Towers.

For occupancy separations, see table no. 5-B.

Section 2305. Roof Design.

- (d) *Snow loads.* Snow loads, full or unbalanced, shall be considered in place of loads set forth in table no. 23-C, where such loading will result in larger members or connections. Potential accumulation of snow at valleys, parapets, roof structures and offsets in roofs of uneven configuration shall be considered. Where snow loads occur, the snow loads shall be determined from appendix 23, division 1.

Section 2903. Excavations and Fills.

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(a) *General.* Excavation or fills for buildings or structures shall be so constructed or protected that they do not endanger life or property. All excavation remaining open for a period exceeding 30 days shall be entirely enclosed and separated from the remainder of the property by a protective fence or other permanent structure at least four feet in height.

Slopes for permanent fills shall be not steeper than two horizontal to one vertical. Cut slopes for permanent excavations shall be not steeper than two horizontal to one vertical unless substantiating data justifying steeper cut slopes are submitted. Deviation from such limitations for cut slopes shall be permitted only upon the presentation of a soil investigation report acceptable to the director of codes administration.

No fill or other surcharge loads shall be placed adjacent to any building or structure unless such building or structure is capable of withstanding the additional loads caused by the fill or surcharge.

Existing footings or foundations which may be affected by any excavation shall be underpinned adequately or otherwise protected against settlement and shall be protected against lateral movement.

Fills to be used to support the foundations of any building or structure shall be placed in accordance with accepted engineering practice. A soil investigation report and a report of satisfactory placement of fill, both acceptable to the director of codes administration, shall be submitted.

Section 2907. Footings.

(a) *General.* Footings and foundations shall be constructed of masonry, concrete or treated wood in conformance with U.B.C. Standard No. 29-3 and shall extend below the frost line, except when erected upon solid rock or otherwise protected from frost. Footings of concrete and masonry shall be of solid material. Foundations supporting wood shall extend at least six inches above the adjacent finish grade. Footings shall have a minimum depth of 36 inches unless another depth is recommended by a foundation investigation.

The provisions of this section do not apply to building and foundation systems in those areas subject to scour and water pressure by wind and wave action. Buildings and foundations subject to such loads shall be designed in accordance with approved national standards.

Section 3101. Scope.

(a) *General.* Buildings or portions of buildings shall be accessible to persons with disabilities as required by this chapter. Compliance with this chapter does not necessarily indicate compliance with the Americans with Disabilities Act.

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Reference is made to appendix chapter 31 for requirements governing the provision of accessible site facilities not regulated by this chapter.

(b) *Design.* The design and construction of accessible building elements shall be in accordance with U.B.C. Standard No. 31-1 which is a part of this code and is also listed in chapter 60, part II, or other nationally recognized standards as approved by the director of codes administration.

Section 3103. Building Accessibility.

(a)(2) *Group A occupancies.* All group A occupancies shall be accessible as provided in this chapter.

Exception: In dining and drinking establishments with seating, at least five percent of the total seating area shall be accessible. The movement of chairs is permitted to accomplish the required accessibility. Comparable facilities shall be available in all seating areas.

Stadiums, theaters, auditoriums and similar occupancies shall have not less than four wheelchair positions for each assembly area with a total seating capacity of 300 or less. For occupancies with larger seating capacities, four wheelchair positions shall be provided for the first 300 fixed seats, plus an additional position for each additional 300 seats or fraction thereof. Removable seats shall be permitted in the wheelchair positions.

Exception: Temporary grandstands and bleachers erected for less than 90 days.

(a)(3) *Group B occupancies.*

(A) Group B occupancies shall be accessible as provided in this chapter.

(B) B-1 parking garages and B-3 open parking garages. At least one accessible direct connection between parking garages and adjacent structures shall be provided which connects the garage to an elevator in the adjacent structure and provides pedestrian access.

Exception: When no other public access to floors, other than that closest to grade, provides direct access to adjacent structures.

(a)(8) *Group R occupancies.* Group R occupancies shall be accessible as provided in this chapter. Public-use and common-use areas serving adaptable dwelling units shall be accessible.

Exceptions:

1. Group R occupancies containing three or less dwelling

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units or congregate residences accommodating ten persons or less.

2. Dwelling units within group R occupancies required to be accessible may be adaptable dwelling units.

3. Dwelling units in group R, division 1, apartment buildings which are located on floors other than the primary entry level when no elevator is provided within the building.

4. Any individual dwelling unit of two or more stories.

In hotels, lodginghouses and congregate residences containing more than ten guestrooms, guestrooms, including associated bathing and toilet facilities, shall be accessible as required by table no. 31-C.

Section 3104. Egress and Areas for Evacuation Assistance.

(a) *General.* In buildings or portions of buildings required to be accessible, accessible means of egress shall be provided in the same number as required for exits by chapter 33. When an exit required by chapter 33 is not accessible, an area for evacuation assistance shall be provided.

Exception: Areas of rescue assistance are not required in buildings where:

1. An approved, automatic fire extinguishing system is installed in accordance with section 3801(b)(1)(A); and

2. A written fire and life safety emergency plan which specifically addresses the evacuation of persons with disabilities, and which is approved by the director of codes administration, is provided.

Areas for evacuation assistance shall comply with the requirements of this code and shall adjoin an accessible route of travel complying with U.B.C. Standard No. 31-1.

Table no. 31-A is reserved.

Table no. 31-B is reserved.

Table no. 31-C. Number of Accessible Rooms and Roll-In Showers.

Total Number of Rooms ¹	Minimum Required Accessible Rooms	Rooms With Roll-In Showers
1--25	1	

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26--50	2	
51--75	3	1
76--100	4	1
101--150	5	2
151--200	6	2
201--300	7	3
301--400	8	4
401--500	9	4 plus 1 for every 100 rooms or fraction thereof over 400
501--1,000	2% of total	
Over 1,000	20 plus 1 for every 100 rooms or fraction thereof over 1,000	

¹ For congregate residences the numbers in these columns shall apply to beds rather than rooms.

Section 3105. Facility Accessibility.

(e) *Uniform identification of restrooms.* All accessible public toilet and bathing facilities shall be identified as specified in this section.

1. By either a male or female international symbol (silhouette), whichever is appropriate, which is at least six inches in height and three inches in width.

2. By the word "Men" or "Women," whichever is appropriate, using letters which are at least five-eighths inch in height and raised at least 1/32 inch.

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3. By the word "Men" or "Women," whichever is appropriate, using Braille symbols (dots) for the blind.

4. By the international symbol of accessibility for physically disabled people when the facility meets or exceeds specifications of this code.

Exception: Signs need not be provided for facilities within an adaptable dwelling unit, or within an accessible patient room or guestroom.

Section 3303. Exits Required.

(c) *Arrangement of exits.* If only two exits are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between exits.

Exceptions:

1. Exit separations may be measured along a direct line of travel within the exit corridor when exit enclosures are provided as a portion of the required exit and are interconnected by a one-hour fire resistive corridor conforming to the requirements of section 3305, Uniform Building Code. Enclosure walls shall not be less than 30 feet at any point in a direct line of measurement.

2. In group B, division 2, office buildings of type I fire resistive construction complying with chapter 17 and equipped with an approved automatic sprinkler system throughout complying with section 3801(a)(1)(A), the minimum separation distance shall not be less than one-fourth of the length of the maximum overall diagonal dimension of the building or area to be served.

Where three or more exits are required, at least two exits shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between the exits, and the additional exits shall be arranged a reasonable distance apart so that if one becomes blocked the others will be available.

Section 3801. Fire Extinguishing Systems--Scope.

(b) *Standard of quality.* All fire extinguishing systems, including automatic sprinkler systems, class I, class II and class III standpipe systems, combined systems, special automatic extinguishing systems and basement pipe inlets, shall be approved and shall be subject to such periodic tests as may be required. The location of all fire department hose connections shall be approved by the fire department.

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The standards listed below are also listed in chapter 60, part II, and are part of this code.

- (1) *Fire extinguishing system.*
 - (A) NFPA 13-1991, Installation of Sprinkler Systems.
 - (B) NFPA 13R-1991, Installation of Sprinkler Systems in Group R Occupancies Four Stories or Less.
- (2) *Standpipe systems.*
 - (A) NFPA 14-1990, Standpipe Systems.

Section 4501. Permanent Occupancy of Public Property--General.

- (a) *Scope.* No part of any structure or any appendage thereto shall project beyond the property line of a building site and encroach below, on or above public property, except where allowed without a permit in this chapter or as otherwise permitted by special ordinance.
- (b) *Construction.* Structures or appendages regulated by this article shall be constructed of materials as specified in this article, section 1711.
- (c) *Projection.* The projection of any structure or appendage shall be the distance measured horizontally from the property line to the outermost point of the projection.
- (d) *Other ordinances.* No provisions of this article shall be construed to permit the violation of other ordinances regulating the use and occupancy of public property.
- (e) *Permit required.* The director of codes administration shall issue a permit to construct an encroachment only when such encroachment is authorized by special ordinance. Encroachments may require approval from the municipal art commission, the department of public works, or the department of parks and recreation if required by ordinance or regulations applicable thereto.

The permittee shall keep in force insurance, issued by a company approved by the director of finance, meeting the following conditions:

- (1) Liability insurance with either a combined single-limit policy of \$500,000.00, or a split-limit policy of \$100,000.00/\$300,000.00 bodily injury and \$100,000.00 property damage.
- (2) The city shall be added as an additional insured to such policy by separate endorsement.

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(3) The policy shall contain a separate endorsement requiring the insurance company to notify the city in writing of any change in or cancellation of the policy at least ten days prior thereto.

(4) Before the permit is issued, and annually thereafter, the permittee shall deposit with the city a certificate of insurance evidencing that the endorsements required by subsections (2) and (3) have been met.

Authorization for an encroachment shall be construed as a permit and not a grant and may be revoked by the city at any time; and, upon revocation, the permittee or the owner of the property adjacent to or adjoining such encroachment, at the same time the removal of the encroachment may be required, shall cause the removal of the encroachment and construction of necessary walls and footings to protect the public property, without expense to the city.

Exceptions: Permits shall not be required for:

(1) Cornices, sills, pediments and similar projections of decorative character when not more than ten inches beyond the property line, provided that every part of such projection is not less than ten feet above the sidewalk and not less than 14 feet above any alley or vehicular trafficway.

(2) Wheel guards of metal or concrete with rounded surfaces when encroaching onto public property, except alleys, not more than ten inches and not more than 18 inches above grade.

(3) Metal wall plates and metal angle corners when projecting onto public property not more than one inch.

(4) Sill cocks, fire department connections and sprinkler system control valves when encroaching onto public property not more than eight inches.

(5) Awnings providing construction, projection, clearances and design conforming with this article, section 4506.

(6) Footings conforming with this article, sections 4502 and 4503.

(7) Curbs or buffer blocks conforming with this article, section 4502.

(f) *Existing encroachments.* Parts of existing buildings and structures which already lawfully project beyond the street lot line or building line may be maintained as constructed until their removal is directed by the director of codes administration.

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(g) *License fees.* Encroachment into the right-of-way may be subject to the imposition of a reasonable license fee established by the city. If found to be in the public interest, the council may modify or waive the imposition of a license fee.

Section 4508. Canopies.

(a) *Definition.* An overhanging fixed or stationary roof-like structure for shelter or shade which is supported by attachment to the building and provided with supports. A canopy shall include any object or decoration attached to or made a part of such canopy.

(b) *Projection and clearance.* The horizontal clearance between a canopy and the curbline shall not be less than two feet.

A canopy shall be at least eight feet above the ground or pavement below. Canvas valances shall be permitted but shall not be less than seven feet from the ground or pavement below.

(c) *Thickness.* The maximum height or thickness of a canopy measured vertically from its lowest to its highest point shall not exceed three feet when the canopy projects more than two-thirds of the distance from the property line to the curbline.

(d) *Construction.*

(1) Canopies shall be designed and constructed to safely support the load requirements as indicated in chapter 23 of this article. Canopies shall be supported by the wall of the building and with approved stanchions.

(2) Canopies shall be constructed of noncombustible materials.

Exception: Canopies may have combustible coverings.

(e) *Prohibited locations.* All canopies shall be so located as not to interfere with the operation of any standpipe or to obstruct the clear passage of stairways or exits.

Section 4600. Demolition--General.

The work of demolition or moving of any building shall not commence until the structures required for protection of persons and property are in place. Such structures shall conform to the requirements as set forth in chapter 44 of this article.

The director of codes administration may require the permittee to submit plans and a complete schedule for demolition or moving work.

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- (a) *Scope.* In addition to the other requirements of this article and the general ordinances, this chapter shall govern the demolition and moving of buildings and structures. Any device or equipment such as scaffolds, ladders, derricks, hoists or similar items used in connection with demolition shall be constructed, installed and maintained and operated in accordance with the regulations governing the construction, installation, maintenance and operation of such device or equipment as specified in other portions of this article.
- (b) *Loads.* Structures or parts of structures, or any floor or temporary support, scaffold, sidewalk barricade, bridge, device or equipment, shall not be loaded in excess of the safe carrying capacity.
- (c) *Warning signs.* When required, demolition jobs shall be provided with danger signs, which shall be conspicuously posted around the property.
- (d) *Lights.* Between sunset and sunrise, adequate lights shall be provided to properly protect persons and property from hazards of pits, excavations, fences, barriers, equipment, building materials or rubbish in, upon or near a sidewalk or street. All walkways shall be provided with lights as follows:
- (1) Amber lights, with capacity of at least 100 watts, on the street side of the walkway at both ends and near the corner.
 - (2) Other lighting consisting of 60-watt lights spaced every ten feet along the walkway.
- (e) *Dust.* All material to be removed shall be wet sufficiently to lay the dust incidental to its removal.
- (f) *Rubbish and waste.* All adjacent streets, alleys and other public ways and places shall be kept free and clear of all rubbish, refuse and loose material resulting from the moving, demolition or demolition operations.
- (g) *Fences.* The director of codes administration may require that a fence be constructed on or around any demolition site, when deemed necessary to protect the public.
- (h) *Methods of demolition.*
- (1) *General.* Except for the cutting of holes in floors for chutes and holes through which to drop materials, preparation of storage space and other necessary preparatory work, demolition of exterior walls and floor construction shall begin at the top of the structure and proceed downward, and each story or exterior wall and floor construction shall be removed and dropped into the storage space before commencing the removal of walls and floors in the story next below. This requirement shall not prohibit the demolition of a structure in sections if positive means are taken to prevent injury to person or damage to property. The use of other

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methods may be permitted when approved in advance by the director of codes administration.

(2) *Protection of openings.* All floor openings and shafts not used for material chutes shall be floored over or enclosed with guardrails and toe boards.

(3) *Stairs and ladders.* All stairs and ladders shall be maintained in a safe condition, and at least one stairway shall be accessible as each floor is demolished.

(i) *Removal of materials.*

(1) *Through chutes.* Materials shall not be dropped by gravity to any point lying outside the exterior walls of the building except through enclosed wood or metal chutes.

Exception: Where the distance from the property line or sidewalk is equal to or greater than the height of the demolition work, materials may be dropped to the ground, provided dust control is maintained in accordance with the provisions of other portions of this chapter.

(2) *Through floor openings.* If debris is dropped through holes in the floor without the use of chutes, the total area of the hole cut in any intermediate floor (one which lies between the floor that is being demolished and the storage floor) shall not exceed 25 percent of such floor area.

(j) *Condition of site.* Upon completion of the removal of the building, structure or utility, all fencing, pedestrian protection and demolition debris and refuse of any kind shall be removed from the site. Excavations, basements or cellars shall be filled with inorganic material; provided, however, the top one foot of fill shall be clean earth. The filling of such excavation may not be required when a building permit has been issued for a new building on a site and the construction thereof is to start within 60 days after the completion of demolition or moving operations. The holder of the building permit shall provide such excavation with a temporary barricade protecting the excavation on all sides as specified for safety by the director of codes administration. Temporary barricades may remain in position for a time not exceeding five days, after which a solid barricade shall be provided or the excavation filled.

Chapter 60 Part II--U.B.C. Standards

Chapter 18:

18-1, 1807(i), appendix 716.

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Fire Alarm and Standby Power-Generating Systems for High-Rise Buildings.

NFPA 110, National Fire Protection Association Standard for Installation of Standby Generators.

Chapter 38:

38-1, 911(c), 1807(c), 3801(b), 3801(d), 3801(e), 3802(f)3, 3802(g), 3802(h), 3901(a), 3903(d), 4204(a), 5207(a), 5208(a), 5603(a), appendix 1108(b).

Installation of Sprinkler Systems. Standard for the Installation of Sprinkler Systems, NFPA 13-1991, National Fire Protection Association.

38-2, 3801(b), 3801(d), 3805(a).

Standpipe Systems. Standard for Installation of Standpipe Systems. NFPA 14-1990, National Fire Protection Association.

Fire Pump. Standard for Installation of Fire Pump. NFPA 20, National Fire Protection Association.

38-3, 3801(b), 3801(d), 4204(a), 4205, 5207(a), 5208(a).

Installation of Sprinkler Systems in Group R Occupancies Four Stories or Less in Height. Standard for the Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height, NFPA 13R-1991. National Fire Protection Association.

Appendices: The following chapters of the appendix are hereby adopted:

Chapter 7--Aviation Control Towers.

Chapter 10--Detention and Correctional Facilities.

Chapter 11--Agricultural Buildings.

Chapter 12, division I--Requirements for Group R, Division 3 Occupancies, except as amended by the following sections:

Section 1221. General.

(a) *Purpose.* This chapter shall be construed to secure its expressed intent, which is to benefit the public safety, health and welfare insofar as they are affected by building construction, through structural strength, adequate means of egress

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facilities, sanitary equipment, light and ventilation and fire safety; and in general to promote safety to life and property from hazards incident to the construction, design, erection, installation, alteration, addition, removal, demolition, replacement, location, relocation, moving, quality of materials, or use and occupancy, operation and maintenance of buildings, structures or premises.

(b) *Scope.* The provisions of this chapter apply to the construction, prefabrication, alteration, repair, use, occupancy and maintenance of detached one- or two-family dwellings not more than three stories in height and their accessory structures.

Section 1222. One- and Two-Family Dwelling Code Adopted.

Buildings regulated by this chapter shall be designed and constructed to comply with the requirements of the CABO One and Two Family Dwelling Code (1992) as amended by the CABO One and Two Family Dwelling Code 1993 Amendments, promulgated by the International Conference of Building Officials, the Building Officials and Code Administrators International, Inc., and the Southern Building Code Congress International, Inc., which is adopted and incorporated in this article by reference as if fully set forth, except as it is amended by the following sections:

Section R-101 is deleted.

Section R-102 is deleted.

Section R-103 is deleted.

Section R-104 is deleted.

Section R-105 is deleted.

Section R-106 is deleted.

Section R-107 is deleted.

Section R-108 is deleted.

Section R-109 is deleted.

Section R-110 is deleted.

Section R-111 is deleted.

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Section R-112 is deleted.

Section R-113 is deleted.

Section R-114 is deleted.

Section R-115 is deleted.

Section R-116 is deleted.

Section R-117 is deleted.

Section R-208.4(5). Glazing in doors and enclosures for hot tubs, whirlpools, saunas, steam rooms, bathtubs and showers. Glazing in any part of a building wall enclosing these compartments where the bottom edge of the glazing is less than 48 inches above the drain inlet.

Section R-208.4(6). Glazing, in an individual fixed or operable panel, adjacent to a door and within the same wall plane as the door whose nearest vertical edge is within 12 inches of the door in a closed position and whose bottom edge is less than 60 inches above the floor or walking surface.

Section R-503.8. Flashing. Approved corrosion-resistive flashing shall be provided at top and sides of all exterior window and door openings in such a manner as to be leakproof, except that self-flashing windows having a continuous lap of not less than 1 1/8 inch over the sheathing material around the perimeter of the opening, including corners, do not require additional flashing; jamb flashing may also be omitted when specifically approved by the director of codes administration. Similar flashings shall be installed at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings; under and at the ends of masonry wood or metal copings and sills; continuously above all projecting wood trim at wall and roof intersections; under built-in gutters; at junction of chimneys and roofs; in all roof valleys and around all roof openings.

Section R-701.3. Roof drainage. In areas where expansive or collapsible soils are known to exist, all dwellings shall have a controlled method of water disposal from roofs that will collect and discharge all roof drainage to the ground surface at least three feet from foundation walls or to an approved drainage system.

Section M-1704.1. Approved types. Pipe and tubing shall conform to table no. M-1704.1, or other approved materials, except that corrugated stainless steel tubing is deleted.

Part V, Plumbing. The plumbing requirements shall conform to section 18-111 et seq. of the Code of

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Ordinances.

Part VI, Electrical. The electrical requirements shall conform to section 18-71 et seq. of the Code of Ordinances.

Chapter 12, division II--Requirements for Group R, Division 4 Occupancies.

Chapter 23, division I--Snow Load Design.

Chapter 23, division IV--Flood-Resistant Construction.

Chapter 26--Protection of Residential Concrete Exposed to Freezing and Thawing.

Chapter 29--Waterproofing and Dampproofing Foundations.

Chapter 31, division I--Site Accessibility.

Section 3106. Exterior Routes of Travel. See Uniform Building Code.

Section 3107 is deleted.

Section 3108 is deleted.

Chapter 31, division II--Accessibility for Existing Buildings.

Section 3110. Definitions.

For the purposes of this chapter certain terms are defined as follows:

Alteration is any change, addition or modification in construction or occupancy.

Structurally impractical describes alterations that require changes to loadbearing structural members other than conventional light-frame construction.

Section 3112(b) is deleted.

Chapter 53--Model Energy Code, Energy Conservation in New Building Construction, except as it is amended by the following sections:

Section 5301. Purpose.

(a) The provisions of this code shall regulate the

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design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical service, water heating and illumination systems and equipment which will enable effective utilization of energy in new building construction.

It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve effective utilization of energy. These provisions are structured to permit compliance with the intent of this code by any one of the three paths of design:

(1) A systems approach for the entire building and its energy-using subsystems which may utilize nondepletable sources. See chapter 4, Model Energy Code (1992).

(2) A component performance approach for various building elements and mechanical systems and components. See chapter 5, Model Energy Code (1992).

(3) Specified acceptable practice. See chapter 6, Model Energy Code (1992).

Compliance with any one of these paths meets the intent of this chapter. This chapter is not intended to abridge safety, health or environmental requirements mandated by other applicable statutes, codes or ordinances.

(b) The Model Energy Code (1992) is hereby adopted with the following exceptions:

Section 101.1 is deleted.

Section 101.2 is deleted.

Section 103 is deleted.

Section 104 is deleted.

Section 105 is deleted.

Section 106 is deleted.

Section 502.2.1.6. Basement Walls. The exterior walls of basements below uninsulated floors shall have a transmittance value not exceeding the value given in table no. 502.2.1 to a depth of ten feet below the outside finish ground level, or to the level of the basement floor, whichever is less.

Exception: This requirement shall not apply to unfinished basements of detached one- and two-family dwellings.

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Chapter 55--Membrane Structures.

Chapter 70--Excavation and Grading, except as it is amended by the following sections:

Section 7002. Scope.

This chapter sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments, not already authorized by a valid permit issued by a city department; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction.

The standards listed below are guideline standards and as such are not adopted as part of this code (see sections 6002 and 6003):

(1) *Testing.*

(A) ASTM D 1557, Moisture-Density Relations of Soils and Soil Aggregate Mixtures.

(B) ASTM D 1556, In Place Density of Soils by the Sand-Cone Method.

(C) ASTM D 2167, In Place Density of Soils by the Rubber-Balloon Method.

(D) ASTM D 2937, In Place Density of Soils by the Drive-Cylinder Method.

(E) ASTM D 2922 and D 3017, In Place Moisture Content and Density of Soils by Nuclear Methods.

Section 7007. Grading Fees.

Fees shall be assessed in accordance with the schedule for building permit fees, section 18-18 of the Code of Ordinances.

Tables 70-A and 70-B are deleted.

Section 7008 is deleted.

Section 7013. Erosion Control.

(c) Specifications. Erosion and sediment control measures

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shall be provided for disturbed areas (clearing, grading, excavating, filling, storing, or disposing of soil and earth materials) greater than 300 square feet, where an application has been submitted or an application is required to be submitted to the director of codes administration for a building permit or grading permit. Erosion and sediment control measures shall comply with the adopted standards by the director of public works. Measures that fail to provide erosion and sediment control to the adopted standards by the director of public works, shall be considered not in compliance with this manual. All control measures shall remain in place and maintained until the site has been stabilized and the measures are no longer necessary.

Secs. 18-52--18-70. Reserved.

Section D. That Chapter 62, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 62-12 and enacting in lieu thereof a new section of like subject matter to read as follows:

Sec. 62-12. Erosion control.

(a) No person shall remove or destroy the natural vegetation on the surface of more than 300 contiguous square feet of land, unless it is done in such manner or provisions are made so that, in the event of precipitation and natural drainage, soil from the land does not wash, either directly or indirectly, upon private property of another without that owner's consent or upon a sidewalk, street, alley, boulevard, parkway, park, drainage easement or other public property in such a way that it causes or contributes to a buildup or accumulation of soil, mud or similar materials. Each day on which any violation of this section continues shall constitute a separate violation.

(b) No owner, occupant or managing agent of any land shall cause or permit the natural vegetation on more than 300 square feet of the surface of such land to be removed or destroyed, unless it is done in such manner or provisions are made so that, in the event of precipitation and natural drainage, soil from the land does not wash, either directly or indirectly, upon private property of another without that owner's consent or upon a sidewalk, street, alley, boulevard, parkway, park, drainage easement or other public property in such a way that it causes or contributes to a buildup or accumulation of dirt, mud or similar materials. Each day on which any violation of this section continues shall constitute a separate violation.

Section E. That the effective date for this ordinance shall be June 1, 1999, except that the amendment to Section 18-51, Code of Ordinances, enacted by Section C of this ordinance shall not become effective if Ordinance No. 980791 or any substitute or amended version of this ordinance adopting the 1997 edition of the Uniform Building Code, becomes effective before June 1, 1999.

Approved as to form and legality:

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Assistant City Attorney