

BILL NO. 2012 - 48
ORDINANCE NO. 9976

AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF SEDALIA, MISSOURI, AND ENACTING NEW ARTICLE IV OF SAID CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF SEDALIA, MISSOURI, RELATING TO STORMWATER TREATMENT.

BE IT ORDAINED by the Council of the City of Sedalia, Missouri as follows:

Section 1. New Article IV of Chapter 22 of the Code of Ordinances of the City of Sedalia, Missouri, is added which reads as follows:

“ARTICLE IV. STORMWATER TREATMENT

Section 22-100: General

The purpose of this ordinance is to provide for the health, safety, and general welfare of the Citizens of the City through the regulation of stormwater and non-stormwater discharges into the City of Sedalia’s Municipal Separate Storm Sewer System. The Governing Body has determined that there are two sets of regulatory controls that will accomplish this purpose.

1. Minimize to the maximum extent practicable the discharge of pollutants from developed land into the surface waters of the City by establishing reasonable requirements for the treatment of stormwater runoff from construction sites, new development, and redevelopment activities.
2. Eliminate to the maximum extent practicable non-storm water discharges (illicit discharges) into the Municipal Separate Storm Sewer System.

The Governing Body finds that land development and the associated increases in impervious cover can increase the quantity and nature of pollutants carried by storm water runoff, increase stormwater runoff rates and volumes, aggravate stream channel erosion and sediment transport, alter the hydrologic response of watersheds, and degrade the ecological function of downstream rivers, creeks, streams, lakes and other water bodies.

The Governing Body finds that stormwater treatment facilities and requirements can minimize those impacts by: reducing pollutant levels carried in stormwater runoff; removing or reducing the concentrations of those pollutants that are carried; reducing stream bank erosion, and by restoring stormwater runoff rates and volumes to levels closer to the pre-development hydrologic regimes.

Further, the Governing Body finds that there are established methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. These methods are: to regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user; to prohibit Illicit Connections and Discharges to the MS4; and to establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this ordinance.

Section 22-101: Definitions

1. "Applicant" means a property owner or agent of a property owner who had filed an application for a permit that is subject to the requirements of this Ordinance.
2. "Best Management Practice" shall mean a stormwater management facility or practice that provides the necessary level of water quality protection and runoff reduction for a given site.
3. "Channel" means a natural or artificial watercourse with defined bed and banks that conducts continuously or periodically flowing water
4. "City" means the City of Sedalia, Missouri
5. "Code" means the most current edition of the City of Sedalia Missouri, Code of Ordinances.
6. "Dedication" means the deliberate appropriation of property by its owner for general public use.
7. "Developer" means a person who engages in development of real estate, whether or not that person is the landowner.
8. "Development" means any man-made changes to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
9. "Director" means the Director of the Community Development Department or the Director's authorized representative.
10. "Director of Public Works" means the Director of Public Works Department or the Director's authorized representative.
11. "Impervious Cover" means those surfaces that cannot effectively infiltrate rainfall, including building rooftops, pavement, sidewalks, and driveways.
12. "Infiltration" means the process of percolating stormwater in the subsoil.
13. "Infill Development" means development on a vacant or substantially vacant tract of land surrounded by existing development.
14. "Land Disturbance" means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of

vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.

15. "Landowner" means the legal or beneficial owner or owners of a lot or tract. The holder of a contract to purchase or other person having an enforceable proprietary interest in a lot or tract shall be deemed a landowner.
16. "Maintenance Agreement" means a legally recorded document that act as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
17. "Off-Site Facility" means a stormwater treatment facility located outside the subject property boundary described in the permit application for land development activity, including facilities that may accept runoff from multiple projects.
18. "Ordinary High Water Mark" means the point along a channel section where vegetation ceases to grow and be present due to frequent inundation and erosion caused by regular channel flows.
19. "Pollutant" means any substance or material which contaminates or adversely alters the physical, chemical or biological properties of water, including changes in temperature, taste, odor, turbidity, or color.
20. "Redevelopment" means development on a tract of land with existing structures where all or most of the existing structures would be razed and a new structure or structures built.
21. "Stop Work Order" means an order issued which requires that all construction activity on a site stopped.
22. "Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage from precipitation.
23. "Stormwater Pollution Prevention Plan" (SWPP Plan) shall mean a plan developed in accordance with EPA and Missouri Division of Natural Resources regulations for the prevention of downstream surface water pollution caused by construction activities.
24. "Stormwater Treatment Facilities" or "Facilities" means all structures, plantings natural features, or other physical elements that are designed, constructed and maintained in accordance with this Ordinance and which are provided to prevent or reduce stormwater pollution or to control stormwater runoff volume and discharges.
25. "Stormwater Treatment Standards" or "Standards" means the detailed design criteria, Specifications, standard details, and maintenance requirements adopted in writing by the Director.
26. "Stream Corridor" shall mean the area reserved for stream preservation under this Ordinance, and shall include the stream and adjacent vegetated area either side of the stream banks a prescribed distance per this Ordinance.
27. "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Section 22-103: Stream Buffers

1. Natural stream protection on developments platted after September 1, 2012: Natural streams shall be buffered by a riparian zone which shall include the stream and all lands adjacent to the stream on both sides for the minimum distance from the ordinary high water mark (OHM) as specified in Table 1 below:

Table 1

Tributary Area	Riparian Zone Width (each side of OHM)
25 to 160 acres	40
160 to 1,000 acres	70
Over 1,000 acres	100

The riparian buffer zone shall be delineated on preliminary plats, preliminary plans, final plans, and final plats based on the criteria stated above. The boundary of the riparian buffer zone shall be delineated by a separate tract of land of conservation easement and dedicated by plat or separate instrument with a legal boundary description.

2. The requirements in this section do not apply to Engineered Channels, which are identified as previously modified from the original stream alignment and fully armored below the ordinary high water mark with concrete, rip-rap, or similar man-made materials.
3. Riparian buffer zones shall remain undisturbed to the maximum extent practicable. This zone prohibits any land disturbance, clearing, grubbing or any other construction activities except as necessary for utility construction and road access. Such construction shall minimize disturbance of the stream and riparian buffer zone. Naturally occurring vegetation within the riparian buffer zone shall not be removed, diminished, inhibited, mowed, or substantially altered from its natural state or growth.
4. Certain other disturbances will be allowed in the riparian buffer zone provided that best management practices are employed to minimize disturbance. Examples of allowable uses include: Recreational trails, Stream restoration and bank stabilization projects, Recreational field and Parklands, Approved roadway crossings, and Lakes (with appropriate state and federal approvals).
5. Adjustments in widths of the riparian buffer zone may be made when approved by the City Administrator or his designee when local conditions justify deviation from the standard widths.
6. Whenever the designated riparian buffer zone must be disturbed, mitigation measures shall be taken to re-establish vegetative stream stabilization to the maximum extent practicable.
7. The City may approve deviations from the requirements of this Section if the Developer is able to show through an engineering and economic evaluation report that:

- a. The integrity of the stream and water quality in the natural stream can be maintained;
- b. All property, buildings and structures planned as part of the development will be protected from stream migration long-term;
- c. The requirements as stated herein would create an undue economic burden to the development and thereby eliminate the feasibility of the project;
- d. Proposed stream changes are approved by the US Army Corps of Engineers and Missouri Department of Natural Resources.

Section 22-104: Post Construction

1. Applicability

- a. No land shall be developed without full compliance with this Chapter unless development occurs as allowed by the following exceptions:
 - i. Land disturbances of less than one acre that are not part of the common plan for development that will cumulatively disturb more than one acre
 - ii. Expansions and modifications to previously constructed developments, otherwise subject to this Chapter where the proposed increase in impervious surface is less than 5,000 square feet.
 - iii. Land disturbances for utility construction
 - iv. Agricultural land uses
 - v. Single lot residential developments that are not part of a larger common plan for development
 - vi. Repairs to any stormwater management facility or practice deemed necessary by the Director of Public Works.
- b. City Administered Street Construction:
 - i. Street and thoroughfare construction projects administered and constructed directly by the City shall comply with this Ordinance except that compliance is not required for street and thoroughfare construction: (1) that would be exempt under the standard exceptions in Part 1 of this Section and (2) that will maintain, enhance, or reconstruct existing roadways, including the intersection improvements, turn lane additions, safety improvements, or new entrances, but which will not add additional through lanes.
 - ii. Unless subject to another agreement, stormwater treatment facilities installed as part of City administered projects are owned and maintained by the City.
 - iii. The City does not assert jurisdiction under this Ordinance over any construction work on State of Missouri Right-of-Way.
- c. Previously Approved Development Plans:

- i. Projects having a preliminary development plan or plat approved prior to adoption of this Ordinance are exempt from the provisions of this Chapter, except as follows:
 1. Development plans approved prior to the effective date of this Ordinance may make “substantial or significant changes” as determined by the Director of Public Works until December 31, 2012, without invoking this Ordinance. Substantial or significant changes to development plans after January 1, 2012 must comply with this Ordinance in the same manner as a new development.

2. Performance Criteria

- a. Stormwater Treatment Standards (Standards): The City shall adopt and maintain Stormwater Treatment Standards to implement and interpret the provisions of this Ordinance. The latest edition of Mid-America Regional Council and American Public Works Association Manual of Best Management Practices for Stormwater Quality (MARC BMP Manual) and all appendices shall be the basis of these Standards. Included in the Standards shall be additional technical guidance or exceptions to the MARC BMP Manual which have been adopted by the City. The additional guidance or exceptions may include, but not be limited to, modified best management practices, design criteria, construction specifications, or standard details. Copies of all adopted standards shall be on file and available in the Community Development Department.
- b. Modifications to Standards: The Standards may be adopted and amended by the Director of Public Works following a public input process. The public input process shall include the following minimum steps: 1) posting proposed documents in draft form a minimum of 30 days prior to the City holding a public informational meeting; and 2) extending a written comment period for a minimum of 30 days after the public informational meeting. A new public input process is not required for revisions to the proposed draft documents if the Standards are adopted within 180 days of the public informational meeting
- c. Minimum Control Requirements: All stormwater treatment facilities shall be designed to provide a combination of pollutant removal and water volume control that satisfies the level of service and value rating calculations set forth in the Stormwater Treatment Standards and other requirements established by City approved watershed management plans or studies.
- d. Non-Structural Stormwater Practices: Non-structural stormwater treatment practices are encouraged to minimize the reliance on structural practices. Applicants wishing to obtain credit for using non-structural practices must ensure that these practices are documented and will remain unaltered by subsequent property owners by locating the facility in a conservation easement, separate tract

dedicated for stormwater treatment facilities or similar instrument as approved by the City Administrator or his designee.

- e. Modifications to Allow Alternate Compliances: In addition, the Director of Public Works may waive or modify any of the Stormwater Treatment Standards to encourage the implementation of alternative or innovative practices that implement the intent of the modified standards and provide equivalent public benefits without significant adverse impacts on surrounding developments. Such modifications may be granted for issues including, but not limited to:
 - i. Approval of alternative materials, devices, techniques, details or specifications for individual treatment facilities that would be expected to provide similar or better performance.
 - ii. Evaluations of credits, ratings, or level of service calculations to account for unique or special technical considerations
 - iii. Corrections, clarifications or modifications to requirements which the Director has found to give inadequate or undesirable performance
- f. Appeals of decisions made by the Public Works Director related to the Standards shall be made to the Governing Body.

3. Site Location and Placement

The location of stormwater treatment facilities shall be consistent with their functions while also conforming to the uses and constraints of the site. The facilities' location shall be approved by the City, and ownership and maintenance responsibility established. At a minimum, all stormwater treatment facilities will be shown on final construction plans and in the maintenance plan.

- a. Centralized and Common Stormwater Treatment Facilities: Most centralized and common facilities for stormwater management will be shown on preliminary plats, preliminary plans, final plans and final plats. The perimeter of the facility shall be documented by a legal boundary description as required by the Director, which could include, but not limited to, a separate tract, a conservation easement, or a dedication on the final plat.
- b. Distributed Stormwater Treatment Facilities: The City may determine that some distributed stormwater treatment facilities cannot be described practically by separate legal boundaries on plans or plats; in such circumstances, provisions will be made for maintenance of the facilities, documentation of their presence, and easements and rights of access, as set forth in Section 4, Part 8.
- c. Residential Single-Family and Two-Family Areas: Generally stormwater treatment facilities for residential single-family and two-family developments shall be centralized and located on a common tract, to be owned and maintained by a homeowner/home's association.

- d. The City may allow a limited number of distributed facilities on individual residential tracts, provided the applicant demonstrates that substantial provisions are in place to ensure long-term operation, maintenance and inspection of such facilities without undue burden to the City for tracking or monitoring compliance.
- e. Private Facilities in the Public Street Right-of-Way: Privately owned and operated stormwater treatment facilities shall be located outside of the public street right-of-way.
- f. Coordination with Utility Easements: Stormwater treatment facilities shall not be co-located within utility easements unless approved by the Director of Public Works.
- g. Detention Ponds: When detention facilities for peak flood control are required, such basins may be co-located with stormwater treatment facilities, provided that the facilities are designed to meet the requirements of both uses.
- h. Off-site Facilities: The City may consider proposals to manage stormwater runoff in off-site facilities that treat runoff from the proposed development and comply with the stormwater Treatment Standards. The off-site facility shall be in place prior to or concurrently with the proposed development. Long-term operations and maintenance responsibilities for the facilities must be established by legal agreements, approved by the City and recorded with County Records and Tax Administration.
- i. Stream buffers as required in Section 3 are considered a beneficial Stormwater Treatment Facility, therefore credit will be granted by the Stormwater Treatment Standards. In limited circumstances, which are specifically included in the Stormwater Treatment Standards, the outer one-third (1/3) of the designated stream buffer may incorporate additional features which enhance the buffer's stormwater treatment function. Such facilities must be consistent with the long-term integrity of the stream buffer as a natural, riparian zone.

4. Deviations

- a. The Planning and Zoning Commission or Governing Body may, in the process of approving preliminary plats, final plats, preliminary development plans or final development plans, approve deviations from the specific terms of this Ordinance which would not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship for the applicant, and provided that the spirit of this Ordinance shall be observed, the public safety and welfare secured and substantial justice done for the application.
- b. An application for the deviation may only be granted upon a finding that all of the following conditions have been met:

- i. That the granting of the deviation will not adversely affect the rights of adjacent landowners
 - ii. That the strict application of the provisions of this Ordinance would constitute unnecessary hardship upon the landowner represented in the application.
 - iii. That the deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 - iv. That granting the deviation will comply with the general spirit and intent of this Ordinance.
 - v. That it has been determined the granting of a deviation will not result in extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local, federal, or state laws.
 - vi. Upon consideration of the factors listed above and the purposes of this Ordinance, the City may attach such conditions to the granting of deviations as it deems necessary to further the purpose of this Chapter.
- c. In considering deviation applications, the City has the discretion of using any or all of the following project evaluations when, in the judgment of the Planning and Zoning Commission or Governing Body, these evaluations are relevant and appropriate. No individual or combination of evaluations are necessarily required for an application to be approved and the Planning Commission or Governing Body may weigh these evaluations in light of all relevant considerations in determining whether or not to approve an application.
 - i. That alternative standard for stormwater management, water quality protection and ecological preservation has been established, and/or that mitigation measures are undertaken.
 - ii. That existing physical or natural characteristics of the site make strict application of the Ordinance infeasible.
 - iii. That concerns for flooding, stream bank erosion, stream instability, and maintenance of culverts, bridges and other structures are addressed.
 - iv. That the deviation is the minimum necessary to afford relief
- d. For City administered street construction, a request for deviation will be initiated and recommended by the Director of Public Works and must be approved by the Governing Body. The City may consider, as part of a deviation request, the constraints posed by lack of available right-of-way, interaction with previously planned or approved stormwater drainage systems, and the nature of surrounding land uses.

5. Stormwater Management Plan Requirements

- a. Preliminary Stormwater Management Plan Requirements: No application for development shall be accepted unless it includes a preliminary stormwater management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by a registered professional engineer in the State of Missouri and must show whether stormwater will be managed on-site or off-site, and show the general location and type of practices.
 - b. The preliminary stormwater management plan must include: conceptual stormwater management plans, sufficient information to evaluate the existing environmental characteristics of the project site, impacts of the proposed development, preliminary sizing for stormwater treatment facilities, and locations of any proposed access easements or conservation easements, and a description of the maintenance responsibility for proposed stormwater treatment facilities.
Final Stormwater Management Plan Requirements: Unless waived by the City Administrator or his designee, the applicant shall obtain City approval for the final stormwater management plan prior to obtaining a permit. The final stormwater management plan, in addition to the information from the preliminary stormwater management plan, shall include all of the information required in the Standards and any other submittal requirements.
 - c. Landscaping and Stabilization Requirements: The landscape plan for permitting purposes shall include all of the following:
 - i. Vegetative stabilization and management techniques to be used at a site after construction is completed
 - ii. An explanation of how the site will be stabilized after construction.
 - iii. Identify the responsible party for the maintenance of vegetation at the site.
 - iv. Identify the practices that will be employed to ensure adequate vegetative cover is preserved.
 - v. The design is prepared by a registered landscape architect in the State of Missouri
 - vi. The design is approved prior to receiving a permit to construct the stormwater treatment facility.
6. Permit Procedures, Requirements, and Performance Surety
- a. Permit Required: No person shall receive any permits for building, grading, or other land development without meeting the requirements of this Ordinance. Generally, permits for stormwater treatment facility construction will be completed under the authorization of a building, site development, or land disturbance permit.

- b. Construction Plan Requirements: Minimum construction plan submittal requirements shall be set by written policy or checklist.
- c. Performance Surety Required: The submittal of a performance Surety in the form of an irrevocable letter of credit or cash deposit shall be required. If a letter of credit is provided, it shall be on the form as prescribed by the City Attorney. The amount of the performance surety shall be 1.1 times the total construction cost of the stormwater treatment facility as estimated by the project designer

Performance Surety Waiver for Single Lot Developments: If stormwater treatment facilities only serve a single building lot and a building is being constructed, a performance surety may be waived by the Director provided all stormwater treatment facilities are constructed and certified prior to issuance of a Certificate of Occupancy, When seasonal or environmental conditions cause a delay in constructing the stormwater treatment facilities, the Director may approve issuing a Certificate of Occupancy provided a performance surety is posted in accordance with Section 5 Part 6 c.

- d. Release of Performance Surety: The performance surety will be released only when all of the following conditions have been met:
 - i. At least 100% of the land area served by the stormwater treatment facilities has permanent stabilization in place.
 - ii. All of the stormwater treatment facilities covered by the surety have been constructed and certified in accordance with this Chapter.
 - iii. If the stormwater treatment facility is constructed prior to final stabilization of at least 100% of the land area served by the facility, and the most recent certification of the facility is more than 90 days old; an updated certification shall be required to verify that the facility is fully functional.
- e. Maintenance Surety: Prior to issuance of a permit for construction of a stormwater treatment facility, the contractor shall submit cash, a letter or credit, or a maintenance bond. The contractor shall be responsible for all regular maintenance and repairs to of the stormwater treatment facility while the maintenance surety is in effect including, but not limited to repairs necessary due to damage caused by intentional or unintentional acts of others. The maintenance surety shall be in the amount of 50% of the construction cost of the facility and be utilized for any maintenance or rehabilitation costs associated with the stormwater treatment facility deemed necessary by the City, including, but not limited to; removal of siltation, mowing, replacement of vegetation, piping repairs, replacement of under drains, other repairs to the facility, and any administrative or

engineering costs associated with such maintenance and repairs. Maintenance sureties shall conform to the following:

- i. If the maintenance surety is in the form of a maintenance bond, it shall remain in effect for a period of three (3) years following initial certification of the stormwater treatment facility.
 - ii. If the maintenance surety is in the form of a Letter of Credit, the contractor or developer shall deposit with the City Director of Finance, Budget and Administration an irrevocable letter of credit from an acceptable financial institution payable to the City collectable no later than three years from the date of initial certification of the stormwater treatment facility.
 - iii. If the maintenance surety is in the form of cash, or letter of credit, all remaining money and any interest accrued thereon shall be returned to the contractor no later than four (4) years after the date of initial certification of the stormwater treatment facility.
- f. **Timing of Stormwater Treatment Facility Construction:** Stormwater treatment facilities shall be constructed as early as feasible during the development process. However, since some commonly used stormwater treatment facilities are sensitive to construction generated silt when upstream areas are under construction, the following provisions are allowable for timing of such facility construction:
- i. For a stormwater treatment facility serving a single building lot, the facility shall be constructed concurrently with the development of the site and building, subject to exceptions set forward in Section 4, Part 6 d. of this Chapter.
 - ii. When stormwater treatment facilities serve multiple development lots within a Common plan of development, a stormwater treatment facility can be final graded and permanent vegetation installed only after 90% of the land area served by the facility has achieved permanent stabilization unless the Director approves a shortened schedule.
 - iii. For stormwater treatment facilities serving multiple development lots within a common plan of development, no Certificate of Occupancy shall be issued for any building or site unless a permit has been issued authorizing construction of required facility to serve the building or site.
- g. **Failure to Construct a Required Stormwater Treatment Facility:** When construction of a stormwater treatment facility is delayed beyond the limits as provided in this Section, the City may utilize any or all of the following enforcement mechanisms:
- i. Draw upon performance surety funds as necessary to construct the stormwater treatment facility.

- ii. Withhold issuance of building permits for properties proposed to be served by such stormwater treatment facility.
- iii. Withhold issuance of Certificates of Occupancy or Certificates of Compliance for permitted work that is proposed to be served by such stormwater treatment facility.
- iv. Issue stop work orders for permitted work for any property that is proposed to be served by such stormwater treatment facility.

7. Construction Inspections

- a. Inspections: Regular inspections of the stormwater management system construction shall be the responsibility of the project designer or other owner's representative and inspection results forwarded to the City. For certain types and locations of Stormwater Treatment Facilities, the City Administrator or his designee may at his discretion require additional or parallel inspections by City Staff.
- b. As-Built Plans: All applicants are required to submit actual "as-built" plans for any constructed stormwater treatment practices. The plan must show the final design specifications for all stormwater treatment facilities and must be certified by the project designer. A final inspection by the City is required before the release of any performance securities can occur. The Director will determine required elements of the as-built plans.
- c. Post Construction Certification: Prior to refunding of performance securities, the project designer, or other party approved by the Director, must certify that the stormwater treatment facility is fully functional and has been installed in accordance with the approved plans. For developments not requiring a performance surety, the certification shall be made prior to issuance of a Certification of Occupancy or Certificate of Compliance.

8. Maintenance and Repair of Facilities

- a. Required Maintenance Agreement: Prior to issuance of any permit that includes construction of a stormwater treatment facility, the applicant or owner of the site shall provide a Maintenance Agreement for approval. At a minimum, the Maintenance Agreement shall:
 - i. Identify the responsible party for maintaining all stormwater treatment facilities.
 - ii. Include an attachment showing the locations of all stormwater treatment facilities.
 - iii. Provide access easements reserved for the responsible party to access and maintain all stormwater treatment facilities, as well as right of access to the City as provided in other sections of this Chapter.

- iv. Establish minimum frequency and levels of maintenance to be done.
 - v. Identify and itemize anticipated annual maintenance expenditures that will be required during each of the first five (5) years of operation after termination of the contractor maintenance period, so that the responsible party may better plan for future maintenance costs. Establish the frequency of inspections to meet or exceed the requirements of this Chapter.
 - vi. Identify resources available to provide maintenance.
 - vii. Identify prohibited practices and homes or business association enforcement process for restoration.
 - viii. Identify the City's rights in the event that the responsible party fails or is unable to perform any of the obligations of the Maintenance Agreement.
 - ix. Clarify how modifications or additions can be made to the Maintenance Agreement.
 - x. Be filed as a covenant to the recorded deeds of all lots to enforce the imposition of any special tax assessment that may be necessary to maintain stormwater treatment facilities if the responsible party fails or is unable to perform any of the obligations in the Maintenance Agreement.
- b. Formation of Homes or Business Association: If any of the Best Management Practices used to meet the Post Construction requirements for stormwater treatment on a developed site will require maintenance activities beyond what can be normally expected from any home owner/occupant, the owner or developer shall form a homes or business association prior to the sale of any lots, and the homes or business association covenants shall include, or reference, the provision of the approved Maintenance Agreement. The homes association or business association covenants shall include provisions collecting maintenance costs for stormwater treatment facilities.
- c. Notice on Plat or Title: The final plat and homes or business association deed restrictions shall contain language to provide notice of facility presence and maintenance obligations. Said deed restriction shall be recorded with the County Records and Tax Administration concurrent or prior to recording of the final plat or approval of final plans. The notice shall run with the land and failure to provide this notice to any purchaser prior to transferring any interest in the property shall be in violation of this Chapter. The notice shall be in an approved form and substantially as set forth below:
- i. Notice: This site includes Stormwater Treatment Facilities, as defined and regulated in the most current edition of the City of Sedalia Missouri, Code of Ordinances. Restrictions on the use or alteration of the said facilities may apply. This property is also subject to the obligations and requirements of the Stormwater Treatment Facility Maintenance Agreement approved by the City”

- ii. When the proposal involves a final plat, this noticed shall appear on the face of the plat, as recorded. When the proposals do not involve a final plat, the notice shall be in the form of a notice of presence recorded with the County Records and Tax Administration, and the notice shall include the legal description of the property, the current owner, the application date and other reference to the project, and the notarized signature of the property owner or owners.
- d. Maintenance Inspections and Certifications by Property Owner: The property owners of all stormwater treatment facilities, except for distributed facilities serving individual residential lots, must submit an inspection report to the City, at the minimum of one (1) year following initial certification, and subsequently every two (2) years thereafter, or as required by the City Administrator or his designee. The inspection report shall be completed and sealed by a registered professional engineer in the State of Missouri. Such inspection shall document each item including, but not limited to, the needs for removal of silt, litter and other debris, grass cutting, removal of undesirable vegetation, and replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater treatment facility.
- e. City Inspection of Stormwater Treatment Facilities: The City may establish an inspection program, including but not limited to: routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants, inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit, and joint Inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records, sampling discharges, surface water, groundwater, and material or water in drainage control facilities, and evaluating the condition or drainage control facilities and other stormwater treatment practices.
- f. Right of Entry Inspection: When any stormwater treatment facility is installed on private property, or when any new connection is made between private property and a public storm sewer system, the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Ordinance is occurring or has

occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Ordinance.

- g. Records of Installation and Maintenance Activities: Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available during inspection of the facility and at other reasonable times upon request.
- h. Failure to Maintain Practices: If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City, after reasonable notice, may correct a violation of the Standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 90 days to effect maintenance and repair of the facility in an approved manner. In the event of an emergency, when the City Administrator or his designee determines that the facility poses an immediate danger to life or property, no notification period shall be required prior to beginning mitigation work. After proper notice, the Director will enforce the maintenance provisions of this Chapter with any or all of the following enforcement measures:
 - i. Notice of Violation: The City Administrator or his designee is authorized to serve a Notice of Violation or order on any person or entity responsible for maintaining the facility. Such notice shall order abatement of the violation by the responsible person or entity.
 - ii. Lien on Property: The City Administrator or his designee may assess the owner(s) of the facility for the cost of repair work and penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

Section 22-105 - Construction

1. Purpose

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches. Clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. In addition, construction sites usually increase the potential for discharges of bulk chemicals and or oil based fluids,

trash and debris, portable sanitary toilets, soils attached to vehicles leaving the site, and concrete wash out materials, among other pollutants of concern.

As a result, the purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the environment in and around the City of Sedalia, Missouri. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Sedalia.

2. Definitions

- a. Clearing – Any activity that removes the vegetative surface cover
- b. Drainage Way – Any channel that conveys surface runoff through the site
- c. Erosion Control – A measure that prevents erosion
- d. Erosion and Sediment – A set of plans prepared by or under the direction of a licensed engineer
- e. Control Plan – Indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction
- f. Grading – Excavating or fill of material, including the resulting conditions thereof
- g. Perimeter Control – A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin
- h. Phasing – Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next
- i. Sediment Control – Measures the prevent eroded sediment from leaving the site
- j. Site – A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation
- k. Site Development – A permit issued by the municipality for the construction or alteration of ground
- l. Permit – Improvements and structures for the control of erosion, runoff, and grading
- m. Stabilization - The use of practices that prevent exposed soil from eroding
- n. Start of Construction – The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages
- o. Watercourse – Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Sedalia
- p. Waterway – a channel that directs surface runoff to a watercourse or to the public storm drain

3. Permits

Any land-disturbing activity that would require the uncovering of over one (1) acre of ground requires an application for a site development permit and the approval of an erosion and sediment control plan by the City of Sedalia.

The site development permit also requires that the owner or developer submit any other applicable permits such as the Corps of Engineers 404 permit, the State of Missouri's 401 permit, the State of Missouri's Land Disturbance permit, and permits for burning and/or blasting if these activities are required for the construction project.

No site development permit is required for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources
2. Existing nursery and agriculture operations conducted as a permitted main or accessory use

Each application shall bear the names and addresses of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principle contact at such firm and shall be accompanied by a filing fee as set in the City Ordinance.

Each applicant shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan and that a certified contractor shall be on site on all days when construction of grading activity takes place.

The applicant will be required to file with the City of Sedalia a faithful performance bond, letter of credit, or other improvement security in an amount deemed sufficient by the City of Sedalia to cover all costs associated with the repair and/or replacement of the erosion and sediment control devices required by the Storm Water Pollution Prevention Plan as approved for the site.

4. Review and Approval

The City of Sedalia will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, the City of Sedalia shall, in writing:

1. Approve the permit application;
2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation; and issue the permit subject to these conditions; or
3. Disapprove the permit application, indicating the reason(s) and the procedure for submitting a revised application and/or submission.

Failure of the City of Sedalia to act on an original or revised application within 30 days if receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Sedalia. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City of Sedalia.

5. Erosion and Sediment Control Plan

The Erosion and Sediment Control Plan shall meet all the requirements set forth in the most recent version of the Missouri Department of Natural Resources Land Disturbance Permit.

Modifications to the Erosion and Sediment Control Plan shall be documented whenever the modification is made; and the documentation shall be located at the land disturbance site at all times and available for inspection.

6. Design Requirements

- a. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the KC – AWWA 5100, and shall be adequate to prevent transport of sediment from the site to the satisfaction of the City of Sedalia. Cut and fill slopes shall be no greater than 2:1, except as approved by the City of Sedalia to meet other community or environmental objectives.
- b. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when given a variance specifically for these activities by the City of Sedalia. Clearing techniques that retain natural vegetation and drainage patterns, as described in KC – APWA 5100, shall be used. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized. Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the City of Sedalia.
- c. Erosion control requirements shall include the following:
 - i. Soil stabilization shall be completed within fourteen (14) days of clearing or inactivity in construction.
 - ii. If seeding or another vegetative erosion control method is used, it shall become established within two weeks or the City of Sedalia may require the site to be re-seeded or a non-vegetative option may be employed.
 - iii. Special techniques that meet the design criteria outlined KC - APWA 5100 on steep slopes or in drainage ways shall be used to ensure stabilization.
 - iv. Soil stockpiles must be stabilized or covered at the end of each work day.

- v. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
 - vi. Techniques that divert upland runoff past disturbed slopes may be employed.
- d. Sediment controls requirements shall include:
- i. Settling basins, sediment traps, or tanks and perimeter controls.
 - ii. Settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by the City of Sedalia.
 - iii. Protection for adjacent properties by use of a vegetative buffer strip in combination with perimeter controls.
- e. Waterway and watercourse protection requirements shall include:
- i. A temporary stream crossing installed and approved by (404 Permit – Army Corps of Engineers and/or 401 Water Certification Permit – Missouri Department of Natural Resources) if a wet watercourse will be crossed regularly during construction.
 - ii. Stabilization of the watercourse before, during, and after any in-channel work.
 - iii. All on-site stormwater conveyance channels designed according to criteria outlined in KC – APWA 5600 and/or 5100.
 - iv. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.
- f. Construction site access requirements shall be include:
- i. A temporary access road provided at all sites.
 - ii. Other measures required by KC – APWA 5100 in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

7. Inspection

The City of Sedalia or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City of Sedalia shall be maintained at the site during the process of the work. To obtain inspections, the permittee shall notify the City of Sedalia at least two working days before the following:

- a. Start of construction.
- b. Installation of sediment and erosion controls.
- c. Completion of site clearing.
- d. Completion of rough grading.
- e. Completion of final grading.

- f. Close of the construction season.
- g. Completion of final landscaping.

The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City of Sedalia at the time interval specified in the approved permit.

The City of Sedalia or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure compliance with the approved Erosion and Sediment Control Plan.

8. Enforcement

Stop-Work Order/Revocation of Permit: In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing in or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property of improvements in the neighborhood, the City of Sedalia may suspend or revoke the site development permit.

Violation and Penalties; no person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

9. Separability

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

Section 22-106: Discharge Detection and Elimination

1. Applicability:

- a. This section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.

2. Ultimate Responsibility:

- a. The standard set forth in this section and promulgated pursuant to this section are minimum standards. Compliance with this section does not insure that there will be no contamination, pollution or unauthorized discharge of pollutants into the waters of the United States. This section shall not create liability on the part of the City or any agent or employee of the City for any damages that result from any discharges, reliance on this section or any administrative decision made under this section.

3. Prohibitions

- a. Illegal Discharges: It shall be unlawful for any person to discharge or cause to be discharged into the municipal separate storm sewer system or into any water course any material other than stormwater. The following discharges are exempt from the discharge prohibitions established by this article:
 - i. Waterline flushing or other potable sources
 - ii. Landscape irrigation or lawn watering
 - iii. Diverted stream flows
 - iv. Rising groundwater
 - v. Groundwater infiltration
 - vi. Uncontaminated pumped groundwater
 - vii. Foundation or footing drains excluding active groundwater de-watering systems
 - viii. Crawlspace pumps, air conditioning, condensation
 - ix. Springs
 - x. Non-commercial washing of vehicles
 - xi. Natural riparian habitat or wetland flows
 - xii. Swimming pools if dechlorinated to less than 1 ppm chlorine
 - xiii. Fire fighting activities
 - xiv. Other water not containing pollutants
 - xv. Discharges specified by the City as necessary to protect public health and safety
 - xvi. Dye testing if notification is given to the City before the test, and
 - xvii. Any non-storm water discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

4. Illicit connections
 - a. It shall be unlawful for any person to construct, use, maintain or have an illicit connection.
 - b. This section expressly applies to illicit connections made in the past even if the connection was permissible under law or practices applicable or prevailing at the time of connection.

5. Waste disposal prohibitions
 - a. It shall be unlawful for any person to place, deposit, or dump or cause or allow the placing, depositing or dumping any refuse, rubbish, yard waste, paper litter or other discarded or abandoned objects, articles and accumulations containing pollutants into the municipal separate storm sewer system or into any waterway.

6. Connection of sanitary sewer prohibited
 - a. It shall be unlawful for any person to connect a line conveying sewage to the municipal separate storm system or to allow such connection to continue.
 - b. It shall be unlawful for any person subject to an industrial activity or construction NPDES storm water discharge permit to fail to comply with all provisions of such permit.

7. Continuing violation
 - a. Each day that a violation of this article continues shall be deemed a separate offense.

8. Notification of Spills
 - a. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information or any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to insure the discovery, containment, and cleanup of such release. In the event of such release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone or Facsimile no later than next business day. Notification in person or by phone shall be confirmed by written notice addressed and mailed to the City within five business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-

site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for three years.

9. Regulations and Monitoring

- a. The Governing Body may, by ordinance, adopt standards identifying best management practices (BMP) for any activity, operation or facility which may cause or contribute to pollution or stormwater, the storm drain system, waters of the State, or waters of the U.S. These standards should be on file at City Hall. It shall be unlawful for any person undertaking any activity or owning or operating any facility subject to such standards to fail to comply with the standards.
- b. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal separate storm sewer system or water courses through the use of structural or non-structural BMPs. Any person responsible for property which is or may be the source of an illicit discharge may be required to implement additional structural or non-structural BMP's to prevent further discharge. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity to the extent practicable shall be deemed in compliance with provisions of this section. These BMPs shall be part of the storm water pollution prevention plan as necessary for compliance with the requirements of the NPDES permit.

10. Nuisance declared

- a. Any discharge in violation of this article is a nuisance.
- b. Any illicit connection is a nuisance.

Section 22-107: Enforcement and Penalties

Violations: Any person or entity violating any provision of this Chapter is guilty of a public offense and shall be subject to penalties as provided in the Municipal Code.

The City shall be permitted to cite the owner, or any/all persons identified on the permit as being legally responsible to the City for any violations of this Chapter pertaining to that permit.

Restoration of Lands: Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Director of Public Works may take necessary corrective action, of which the cost to the City shall become a lien upon the property until paid.

Section 22-108: Miscellaneous

Compatibility with Other Permit and Ordinance Requirements: This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule of regulation, stature, or other provision of law. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Severability: If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section subsection, paragraph, subdivision or clause of this Ordinance.

Authority: The Director of Public Works shall be responsible for the administration and enforcement of this Ordinance. The City shall have the authority to adopt regulations, policies and procedures as necessary for the enforcement of this Ordinance.”

is hereby enacted.

Section 2. This ordinance shall be in full force and effect from and after its passage and approval.

Read two times by title, copies of the proposed ordinance having been made available for public inspection prior to the time the bill is under consideration by the Council and passed by the Council of the City of Sedalia, Missouri this 2nd day of July, 2012.

Mary Elaine Horn
Presiding Officer of the Council

Approved by the Mayor of said City this 2nd day of July 2012.

Mary Elaine Horn
Mary Elaine Horn, Mayor

ATTEST:

Arlene Silvey, MRCC
Arlene Silvey, MRCC City Clerk