

CHAPTER XV. UTILITIES

ARTICLE 7. POST CONSTRUCTION STORMWATER RUNOFF CONTROL

SECTIONS

15-701	TITLE
15-702	PURPOSE AND FINDINGS
15-703	ABBREVIATIONS
15-704	DEFINITIONS
15-705	PERMITS REQUIRED
15-706	AUTHORIZATION TO UNDERTAKE LAND DISTURBANCE ACTIVITIES: COMPONENT OF BUILDING PERMITS
15-707	PERMIT OR PLAN GENERALLY
15-708	ENGINEERED PLANS
15-709	MAP AND EXISTING CONDITIONS
15-710	PRELIMINARY POST-CONSTRUCTION STORMWATER MANAGEMENT CONCEPT PLAN REQUIREMENTS
15-711	FINAL POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN REQUIREMENTS
15-712	MAINTENANCE AGREEMENT AND RESPONSIBILITY
15-713	WORK SCHEDULE
15-714	POST-CONSTRUCTION STORMWATER RUNOFF MANAGEMENT MANUAL; POST-CONSTRUCTION STORMWATER RUNOFF DESIGN CRITERIA
15-715	DEVIATIONS
15-716	REVIEW AND APPROVAL
15-717	MODIFICATION OF PLANS
15-718	AS BUILT PLANS
15-719	FEEES
15-720	PERMIT AND/OR APPROVED PLAN, EXPIRATION AND RENEWAL
15-721	COORDINATION WITH OTHER PERMITS
15-722	PERFORMANCE GUARANTY
15-723	PENALTIES, FINES, IMPRISONMENT

15-701.

TITLE.

This Article 7 of Chapter 15 shall be known as the Post-Construction Storm Water Runoff Control Ordinance (“Ordinance”).

(Ord. 2287C; 12-17-07)

15-702. PURPOSE AND FINDINGS.

- (a) The purpose of this Ordinance is to minimize and prevent 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 new development and redevelopment activities.
- (b) The Governing Body finds that land development and the associated increases in impervious cover can increase the quantity and nature of pollutants carried by stormwater 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.
- (c) Further, 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.

(Ord. 2287C; 12-17-07)

15-703. ABBREVIATIONS.

The following abbreviations when used in these Regulations shall have the designated meanings:

APWA	American Public Works Association
BMP	Best Management Practice
MARC	Mid-America Regional Council

(Ord. 2287C; 12-17-07)

15-704. DEFINITIONS.

For the purposes of this Ordinance, the following definitions apply:

- (a) “Approved Plan” means a set of representational drawings or other documents that have been approved by the City as complying with the provisions of this Ordinance submitted by an applicant (either as an independent submittal or a part of another development application(s) required by the City Code as a prerequisite to obtaining a building or land disturbance permit and that contain the information and specifications required by the City to minimize storm water runoff.
- (b) “Applicant” means any person who makes application for an approved plan or for a building permit for an activity involving building or development that results in land disturbance or for a land disturbance permit, as required by this Ordinance.
- (c) “As-Built plan” means a record drawing or plan prepared and certified by a licensed Professional Engineer or Land Surveyor that represents the actual dimensions, contours, elevations, etc., of a completed structure, facility, or constructed feature.

- (d) “Channel” means a natural or artificial watercourse with defined bed and banks that conducts continuously or periodically flowing water.
- (e) “City” means the City of Leawood, Kansas
- (f) “City Code” means the Code of the City of Leawood, 2000, as amended and the Leawood Development Ordinance.
- (g) “Community Development Director” means the individual appointed by the City as the Community Development Director or a duly authorized representative.
- (h) “Detention” means a stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, rooftops, parking areas, holding tanks, in-pipe and in-channel storage.
- (i) “Detention Facility” means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.
- (j) “Development Application” means all applications required by the City Code as a prerequisite to initiation of development, including, but not limited to a building permit application.
- (k) “Drainage Easement” means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
- (l) “Erosion” means the wearing away of land by the action of wind, water, gravity, or a combination thereof.
- (m) “Floodplain” means the floodway and floodway fringe as identified by the Federal Insurance Administration through its report entitled “The Flood Insurance Study for the City of Leawood, Kansas,” dated June 17, 2002 or such other designation of the floodplain as is subsequently adopted by the City, and representing the regulated 100-year water surface and corresponding elevations.
- (n) “Impervious Cover” means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).
- (o) “Infiltration” means the process of percolating stormwater into the subsoil.
- (p) “Land Disturbance Activity” 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.

- (q) "Landowner" means that legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights on the land.
- (r) "Licensed land surveyor" means an individual who is duly licensed by the Kansas State Board of Technical Professions, pursuant to K.S.A. 74-7001 et seq. to practice surveying.
- (s) "Maintenance Agreement" means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (t) "Maximum Extent Practicable" means the use of those best management practices, which, based on sound engineering and hydro-geological principals, will, to the greatest degree possible, given all relevant considerations, including technology, climate, and site conditions, minimize storm water runoff from a site during and after construction.
- (u) "Off-Site Facility" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
- (v) "On-Site Facility" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.
- (w) "Permit" means a building permit for activities involving building or development resulting in land disturbance and a land disturbance permit for activities resulting in land disturbance, required by 15-705, that does not involve building or development.
- (x) "Permittee" means any person to whom a building permit is issued with respect to activities involving building or development resulting in land disturbance or for purposes of this Ordinance only, any person to whom a land disturbance permit is issued.
- (y) "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.
- (z) "Professional Engineer" is an engineer duly licensed by the Kansas State Board of Technical Professions, pursuant to K.S.A. 74-7001 et seq. to practice engineering.
- (aa) "Public Works Director" is the individual appointed by the City as the Public Works Director or a duly authorized representative.
- (bb) "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.

- (cc) "Sediment" means soils or other materials transported or deposited by the action of wind, water, ice, gravity, or artificial means.
- (dd) "Site" any lot or parcel of land or a series of lots or parcels of land adjoining or contiguous or joined together under one (1) ownership on which land disturbance activity is proposed.
- (ee) "Stop Work Order" means an order issued which requires that all construction activity on a site be stopped.
- (ff) "Stormwater Management" means the use of structural or non-structural practices that are designed to reduce storm water pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (gg) "Stormwater Best Management Practices" means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.
- (hh) "Stormwater Runoff" means water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.
- (ii). "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
(Ord. 2287C; 12-17-07)

15-705. PERMITS REQUIRED

- (a) No person shall receive any building development or other permit that results in land disturbance except as specifically provided for herein without first complying with this Ordinance, the Leawood Development Ordinance, the Code of the City of Leawood, 2000, including Article 5 of Chapter 15 of the City Code.
- (b) This Ordinance shall not be construed to be in conflict with any state law intended to control post construction storm water runoff. In those instances where state law imposes a duty or requirement with respect to a matter covered by this Ordinance, the more environmentally stringent duty or requirement shall control.
- (c) Projects meeting any of the following criteria are exempt from the requirement of obtaining a permit required by this section and the provisions of this Article:
 - 1. Land disturbance of less than 1 acre that are not part of common plan development the will cumulatively disturb more than 1 acre.
 - 2. Land farming operations, including plowing or tilling of land for the purpose of crop production or the harvesting of crops on land located in the agricultural district.

3. Expansions and modifications to previously constructed developments otherwise subject to this Ordinance where the proposed increase in impervious surface is less than 5,000 square feet.
4. Land disturbance for utility construction.
5. Single lot residential developments that are not part of a larger common plan for development.
6. Reestablishment of lawn areas.
7. any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

provided that, if one or more of the above activities is undertaken as a part of or in conjunction with an activity involving building or development that otherwise requires issuance of a building permit, this Section does not alter the requirement that a building permit shall be obtained for that activity or activities.

- (d) **Previously Approved Development Plans:**
 Projects having a preliminary development plan or preliminary plat approved or having an application on file prior to the adoption of this Ordinance are exempt from the provisions of this Ordinance, provided that a final plan for the development is submitted and approved on or before July 1, 2010 and construction is diligently pursued. For projects with plan applications filed and pending on the effective date of this ordinance, the subject preliminary or final plan application must obtain approval by the Governing Body on or before July 1, 2008, in order to retain the exemption stated herein.
- (e) The issuance of a permit shall constitute authorization to do only that work described or shown on the approved plan, all in strict compliance with the requirements of this Ordinance, unless each and every modification or waiver is specifically listed and approved as required by Section 15-716 of this Ordinance. Reasonable field modifications can be made pursuant to Section 15-719(B) of this Ordinance
- (f) The permittee and/or permittee's agent, contractors, and employees shall carry out the proposed work in accordance with the approved plan, and the permit, and in compliance with all applicable requirements or conditions.
 (Ord. 2287C; 12-17-07)

15-706. AUTHORIZATION TO UNDERTAKE LAND DISTURBANCE ACTIVITIES: COMPONENT OF BUILDING PERMITS

- (a) A permit must be obtained before any activity involving building or development resulting in land disturbance is initiated, except as provided in Section 15-705(C). The authority to undertake any of these activities shall be evidenced only by a valid permit. Before a permit is issued for these activities, the engineered plans specified in Section 15-708 must be submitted to the City and must contain the information and be in the form required therein, subject to the provisions of Section 15-708. In effect, Section 15-708 sets forth application submission requirements for activities involving building or development resulting in land disturbance that are in addition to the application submission requirements specified in Chapter 4 of the City Code.

- (b) If an individual proposes to undertake a land disturbance activity that does not, pursuant to any other section of the Code, require issuance of a building permit (such as, but not limited to, installation of sanitary sewers), the individual shall not, except as provided in Article 5, Section 15-525, initiate land disturbance activities until a land disturbance permit is obtained.

(Ord. 2287C; 12-17-07)

15-707. PERMIT OR PLAN GENERALLY

- (a) Where activities involving building or development resulting in land disturbance are to be performed, the owner of a site, or the site owner's authorized representative shall submit a complete building permit application in writing upon forms furnished by the City, which application shall include the engineered plans specified in Section 15-708.
- (b) Where land disturbance activity is to be performed and the City Code does not otherwise require issuance of a building permit, the owner of the site or the site owner's authorized representative shall submit the engineered plans in compliance with this Ordinance and Article 5 Section 15-525 to the Community Development Director.
- (c) A permit must be issued in the name of the current property owner.
- (d) No permit for activities that are not permitted by existing zoning, variances or other valid development approvals applicable to the land, shall be approved.
- (e) In making an application covered by this Ordinance, the applicant or the landowner performing or allowing the work consents to the City's right to enter the site for the purpose of inspecting compliance with the approved plan or for performing any work necessary to bring the site into compliance with the approved plan.
- (f) The engineered plans required by Section 15-708 are not intended to be duplicative of other provisions of this Ordinance or Code. Accordingly, the required engineered plan may be included in or with any other development application(s) or submission(s) otherwise required by this Ordinance or Code; provided that, all the information required therein is in a form that can reasonably be evaluated by the designated decision maker. The decision concerning the form of the information submitted shall be made in the Community Development Director's sole discretion. In addition, these Sections provide authority for the Community Development Director to waive submission requirements determined not to be necessary to the evaluations that are required by this Ordinance.

(Ord. 2287C; 12-17-07)

15-708. ENGINEERED PLANS

- (a) If not otherwise included in a separate development application or applications to the City that seek approval of the specific activity that will result in land disturbance, as provided by Section 15-707 above, the following information shall be submitted to the Community Development Director:
1. a site map in compliance with Section 15-709;
 2. a post construction stormwater runoff management concept plan in compliance with Section 15-710;
 3. a post construction stormwater BMP maintenance agreement in compliance with Section 15-712;
 4. a work schedule in compliance with Section 15-713;
 5. the permit fee as set forth in Section 15-721;

6. a performance guaranty as required by Section 15-724;
 7. an engineering soils report in compliance with Section 15-710, when required by the City.
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- (b) The post construction stormwater runoff management concept and stormwater BMP maintenance agreement plans must be prepared and certified by a Professional Engineer.
 - (c) The City may require any additional information or data deemed appropriate and/or may impose conditions thereto as the Director of Public Works may deem necessary to ensure compliance with the provisions of this Ordinance and to preserve public health and safety.
 - (d) The Director of Public Works may waive the requirements for maps, plans, reports, or drawings, if the Director of Public Works finds that the current submittals or information to be submitted will be sufficient to show that the proposed work will conform to the requirements of this Ordinance.
 - (e) The applicant is bound by information submitted and by this Ordinance.
 - (f) Failure to comply with these requirements may result in the City denying the issuance of a permit.

(Ord. 2287C; 12-17-07)

15-709. MAP AND EXISTING CONDITIONS

- (a) Subject to Section 15-708(A), the applicant shall submit a site map that contains all of the information specified in the current Post-Construction Stormwater Runoff Management Manual approved by the City as required by Section 15-712 of this Ordinance.
- (b) An attached vicinity map showing the location of the site in relation to the surrounding area's watercourses, water bodies, and other significant geographic and natural features, and street and other significant features.
- (c) The vicinity map also should identify any watercourses or water bodies where drainage on the site may flow to waters that are known to be impaired as defined by the Clean Water Act 303d listing as identified by the Kansas Department of Health and Environment or known to have any special designation, such as habitat for a protected species. Also, if impaired waters or special designations are present, list impairments and special designations.
- (d) Existing and proposed topography of the entire site with contour lines drawn at one-foot intervals.
- (e) Show on/off-site drainage, including the subwatershed as well as the entire drainage basin;
- (f) Site's property lines shown in true location of all existing and proposed natural and man-made drainage facilities;
- (g) Graphic representation of the location of and legend of soil types if applicable to proposed runoff controls (including source of information);
- (h) A clear and definite delineation of any wetlands, natural or artificial water storage detention areas, and drainage ditches on this site, or a statement that there are no wetlands, detention areas or drainage ditches located on the property;
- (i) A clear and definite delineation of any drainage, sanitary, utility, or other easement(s) on or near the site;

- (j) A clear and definite delineation of applicant's determination, based on the best available information and sound engineering principles of the existence of a regulatory Floodplain, as defined in 15-704 and of any fully urbanized floodplain on or near the site as determined by a Johnson County watershed study or a statement that there are no such floodplains located on the property;
- (k) Location and legend of existing vegetative cover and the location and legend of vegetative cover to be left undisturbed;
- (l) Location of existing surface runoff and detention control measures;
- (m) The signature and seal of a Professional Engineer.

(Ord. 2287C; 12-17-07)

15-710. PRELIMINARY POST-CONSTRUCTION STORMWATER MANAGEMENT CONCEPT PLAN REQUIREMENTS

A stormwater management concept plan shall be required with all permit applications and will include sufficient information (i.e., maps, hydrologic calculations, BMP level of service calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site.

- (a) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) also will clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads, and easements; the limits of clearing and grading; A written description of the site plan and justification of proposed changes in natural conditions.
- (b) Sufficient engineering analysis to show that the proposed stormwater management BMPs are capable of controlling and treating runoff from the water quality storm at the site in compliance with this ordinance and the specifications in the current Post-Construction Stormwater Management Manual approved by the City.
- (c) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features, including water body impairments listed in the Clean Water Act 303d listing and identified by the Kansas Department of Health and Environment, which provide particular opportunities or constraints for development.

- (d) Identification and preliminary plan for control of any stormwater “hot spots” that could pose an environmental hazard such as, but not limited to; fuel dispensing facilities, above ground storage of liquid materials, solid waste storage areas, exterior storage of bulk materials, material transfer areas and loading docks, equipment and vehicle washing facilities, covered parking areas, and high-use vehicle and equipment traffic areas, parking, and vehicle storage.
- (e) A written description of the required maintenance burden for any proposed structural and non-structural stormwater BMP as defined in Section 15-712 of this Ordinance.
- (f) Schedule for required maintenance as well as identification of party responsible for the maintenance as defined in Section 15-712 of this Ordinance.
- (g) For development or redevelopment occurring on a previously developed site, the applicant is required to include within the plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Ordinance to the maximum extent practicable.

(Ord. 2287C; 12-17-07)

15-711. FINAL POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN REQUIREMENTS

After review of the preliminary stormwater management concept plan, and modifications to that plan as deemed necessary by the Public Works Director, a final post-construction stormwater management plan must be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include all of the following information:

- (a) Contact Information: The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
- (b) Topographic Base Map: A 1”=200’ topographic base map of the site which extends a minimum of 500-feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
- (c) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. Such calculations shall include (i) description of the design storm frequency, intensity, and duration, (the design storm for water quality BMPs is the water quality storm, which is the storm event that produces less than or equal to 90 percent volume of all 24-hour storms on an annual basis) (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area; (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the current City approved version of the Post-Construction Stormwater Runoff Management manual, (ix) pre- and post-development percent imperviousness of the site, and (x) documentation of sources for all computation methods and field test results.

- (d) Soils information: If a stormwater management control BMP depends on the hydrologic properties of soils (i.e., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measures.
- (e) Maintenance and Repair Plan
The design and planning of all storm water management structural and non-structural BMPs shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- i. Vegetation: The applicant must present a detailed plan for management of vegetation used for the BMP's at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by the registered engineer responsible for the design of the BMP's.
 - ii. Maintenance Easements: The applicant must ensure access to all stormwater BMPs at the site for the purpose of inspection and repair by securing all the maintenance/access easements needed on a permanent basis. These easements will be recorded with the plat and will remain in effect even with transfer of title to the property.
 - iii. Maintenance Agreement: The applicant must include a maintenance agreement including all components identified in Section 15-712.
 - iv. Erosion and Sediment Control Plans for Construction of Stormwater Management Measures: The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management practices as required by Article 5 of this Chapter.
 - v. Other Environmental Permits: The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

(Ord. 2287C; 12-17-07)

15-712. MAINTENANCE AGREEMENT AND RESPONSIBILITY

(a) Maintenance Agreement

1. Prior to the issuance of any building permit for activities involving building a development resulting in land disturbance, except as specified in Section 15-705 is required, the City shall require the applicant to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
2. The agreement shall be recorded by the applicant and/or owner in the land records of the County.
3. The agreement shall also provide that, if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the owner will be cited for violation of the ordinance in accordance with Section 15-723.

(b) Maintenance Responsibility

1. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.
2. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

(Ord. 2287C; 12-17-07)

15-713. WORK SCHEDULE

Subject to Section 15-714, the applicant shall submit a chronological construction and maintenance schedule for each BMP, structural or non-structural, approved in the final post-construction stormwater management plan.

Stormwater BMPs are subject to inspection throughout construction at the discretion of the Public Works Director.

(Ord. 2287C; 12-17-07)

**15-714. POST-CONSTRUCTION STORMWATER RUNOFF MANAGEMENT MANUAL;
POST-CONSTRUCTION STORMWATER RUNOFF DESIGN CRITERIA**

There is hereby incorporated by reference that certain document entitled "The Manual of Best Management Practices for Stormwater Quality" dated March 2008, prepared and published by the Mid-America Regional Council and the American Public Works Association. No fewer than three copies of The Manual of Best Management Practices for Stormwater Quality shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2361C" and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

(Ord. 2287C; 12-17-07)

(Ord. 2361C; 10-20-08)

15-715. DEVIATIONS

- (a) The Planning Commission or Governing Body may, in the process of approving preliminary plats, final plats, preliminary development plans or final development plans, or a building permit or land disturbance permit, if none of the above are required by other sections of this Chapter, 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 applicants.
- (b) An application for a deviation may only be granted upon a finding that all of the following conditions have been met:
1. That the granting of the deviation will not adversely affect the rights of adjacent landowners.
 2. That the strict application of the provisions of this Ordinance would constitute unnecessary hardship upon the landowner represented in the application.
 3. That the deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 4. That granting the deviation will comply with the general spirit and intent of this Ordinance.
 5. 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.

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 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.

1. That alternative standards for stormwater management, water quality protection, and ecological preservation have been established, and/or that mitigation measures are undertaken.
2. That existing physical or natural characteristics of the site make strict application of the Ordinance infeasible.
3. That concerns for flooding, stream bank erosion, stream instability, and maintenance of culverts, bridges or other structures are addressed.
4. That the deviation is the minimum necessary to afford relief.

(Ord. 2287C; 12-17-07)

15-716. REVIEW AND APPROVAL

- A. The City will review all submissions required by this Ordinance to determine their conformance with the provisions of this Ordinance and the MARC Manual of Best Management Practices for Stormwater Quality incorporated by reference through Section 15-714 of this City Code.
- B. The Community Development Director may approve a plan and authorize the Building Official to issue a building permit or may issue a land disturbance permit if all required submittals comply with all the requirements of this Ordinance or that of Article 5 Section 15-525.
- C. Within fifteen (15) working days after receiving all required submissions, the Community Development Director, in writing, may:
 1. If a building permit is otherwise required;
 - a. Approve the plan and notify the Building Official that all requirements of this Ordinance have been met and that the permit may be issued; or
 - b. Conditionally approve the plan and notify the Building Official that the requirements of this Ordinance has been met and that the building permit may be issued, subject to conditions as may be necessary to substantially secure the objectives of this Ordinance, prevent the creation of a nuisance or an unreasonable hazard to persons or to a public or private property; or
 - c. Disapprove the plan and notify the Building Official that the requirements of this Ordinance have not been met; indicating those requirement(s) that have not been met.
 2. If a building permit is not otherwise required:
 - a. Approve the plan and issue the permit; or

- b. Conditionally approve the plan and issue a land disturbance permit subject to conditions as may be necessary to substantially secure the objectives of this Ordinance, prevent the creation of a nuisance or an unreasonable hazard to persons or to a public or private property; or
- c. Disapprove the plan and inform the applicant in writing of those requirement(s) that have not been met.

(Ord. 2287C; 12-17-07)

15-717. MODIFICATION OF PLANS

- (a) Modification of the approved plan must be submitted to the City, and shall be reprocessed in the same manner as the original plan, where:
 - 1. Field inspection or evaluation has revealed the inadequacy of the approved plan to accomplish and control the post construction runoff according to the design criteria; or
 - 2. The person responsible for carrying out the approved plan finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out.
- (b) Field modifications of a minor nature may be authorized in writing by the Public Works Director; provided those modifications are consistent with the post construction runoff criteria of this Ordinance and the Post-Construction Stormwater Runoff Management manual. The Public Works Director may establish a list of allowable field modifications for this purpose that shall be included in the manual.

(Ord. 2287C; 12-17-07)

15-718. AS BUILT PLANS

- (a) All applicants are required to submit actual “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the City is required before the release of any performance and maintenance bond.

(Ord. 2287C; 12-17-07)

15-719. FEES

- (b) Before issuance of a permit, the applicant shall pay a fee, which shall be in addition to the building permit fee if otherwise applicable, to cover the cost of administration, plan review, and inspection services associated with evaluation of submittals and permits required by this Ordinance. The amount of the fee shall be established by the Governing Body by resolution or ordinance.

(Ord. 2287C; 12-17-07)

15-720. PERMIT AND/OR APPROVED PLAN, EXPIRATION AND RENEWAL

- (a) The permit shall be valid from the time that it is issued until a final certificate of occupancy is issued in conjunction with a building permit, or a certificate of completion submitted by the design engineer pursuant to Section 15-718.
- (b) If the permittee sells the property before the expiration of the permit, the permit may be assigned to the new owner of the site if the assignment is approved in writing by the Community Development Director, provided that the permittee shall remain responsible for compliance with the permit until a final certificate of occupancy is issued or a certificate of completion is issued as set forth in Section 15-720.
- (c) If the permittee sells any portion of the property before the expiration of the permit, the permittee will remain responsible for that portion of the property until the new owner of the property, with respect to the property covered by a permit, makes all submissions required by this Ordinance, which or not waived, to the Community Development Director and he or she approves the plan and issues the new owner a permit.

(Ord. 2287C; 12-17-07)

15-721. COORDINATION WITH OTHER PERMITS

When a person is developing a site and a permit is required, in accordance with Section 15-705 of this Ordinance, no other construction permits shall be issued to make improvements on that site until the person has secured the permit required by this Ordinance for the same site. This includes all permits issued by another City department.

(Ord. 2287C; 12-17-07)

15-722. PERFORMANCE GUARANTY

The City will require the submittal of a two year performance and maintenance bond prior to issuance of a permit. The two year period shall commence upon issuance of a Certificate of Occupancy or Certificate of completion.

(Ord. 2287C; 12-17-07)

15-723. PENALTIES, FINES, IMPRISONMENT

The owner, occupant or general agent of a building or premises where a violation of any provision of this Ordinance has been committed or shall exist, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than \$250.00 and not more than \$1,500.00 for each and every day that such violation continues, or by imprisonment for 10 days for each and every day such violation shall continue, but in no case to exceed 3 months of imprisonment, or by both such fine and imprisonment in the discretion of the Court. Each separate day on which a violation is committed or continues shall constitute a separate offense.

Additionally, if a property owner is not available, not able or willing to correct a violation, then, in the case of an emergency, the Director may order City representatives to enter private property to take any and all measures necessary to abate the violation. If the violation does not present an immediate hazard, then the Director shall follow those procedures for the abatement of nuisances. In any event, the owner and/or occupant of the property shall reimburse the City for the full amount of the cost of the abatement and such reimbursement may be enforced by court order in any court of competent jurisdiction or may be enforced under the City's provisions regarding the abatement of nuisances.

Additionally, if it is determined that a violation of this Code exists, then the officer shall declare such condition a nuisance and is authorized to pursue abatement and enforcement procedures as specified in Chapter 8 of the Code of the City of Leawood, 2000.

(Ord. 2287C; 12-17-07)