

**AN ORDINANCE REPEALING ORDINANCE 1337, (CHAPTER 12 OF THE CODE OF THE CITY OF CHESTERFIELD) AND REPLACING IT WITH A NEW CHAPTER 12, GRADING, EROSION AND SEDIMENT CONTROL**

**WHEREAS**, the City of Chesterfield has a vital interest in any and all development and/or improvement activities that actually or potentially create or increase the rate of stormwater runoff, erosion, and sedimentation hazards to the City's various infrastructure interests (concerns), and

**WHEREAS**, the United States Environmental Protection Agency requires all operators of municipal separate storm sewer systems to implement programs and practices to control polluted storm water runoff, and

**WHEREAS**, the United States Environmental Protection Agency considers any development and/or improvement activity that disturbs soil as a leading cause of polluted storm water, and

**WHEREAS**, it is the intent of the City of Chesterfield to regulate stormwater runoff, erosion and sedimentation control by working with and through those performing, or responsible for, the work involved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:**

**Section 1.** Chapter 12 of the Code of the City of Chesterfield is hereby repealed and a new Chapter 12 replaces it in its entirety, as herein provided;

**Section 2.** The City hereby establishes a Grading, Erosion and Sediment Control Ordinance which requires that:

Those involved shall control erosion and sedimentation by protecting the soil surface from the erosive force of rain, surface water runoff and/or wind. Eroded soil must be captured and retained on the construction site. Stormwater runoff shall be kept at low velocities and volumes on site, and at or below required rates of flow going off-site. To the extent possible, no sediment is to leave the perimeter of the site, in no event shall sediment be permitted to cause water pollution, or block of water courses or drainage areas. The following five principles shall be compiled into an overall control plan to sequentially coordinate all of the erosion and sediment control measures to be used most effectively. Said plan shall be part of any request for a clearing and/or grading permit and an approved copy must be kept on site.

1. **Protect the Land Surface and Protect Existing Facilities**

Clearing shall be minimized. Clearing/Grubbing/grading shall be scheduled/phased to minimize bare soil areas and time of exposure. Stormwater shall be diverted away from the bare soil and steep slopes. Drainage ways shall be stabilized. Existing stormwater facilities and water ways shall be protected.

2. Sequence of Work

Key erosion/sediment control measures shall be installed prior to clearing/grading. Clearing/Grading sequence shall be coordinated with the installation of erosion/sediment control measures to most effectively control erosion. Exposed areas shall be protected as soon as possible. The construction entrance and any channels shall be stabilized immediately.

3. Keep Runoff Velocities Low

Natural vegetation shall be preserved where possible. Exposed areas shall be protected as soon as possible after clearing or grading to allow infiltration and slow surface runoff. BMP's that shorten or "break" flows shall be utilized to reduce flow velocities.

4. Capture Sediment on the Site as Final Measure

Stormwater shall be conveyed to stable outlets and water shall be detained in intermediate sediment traps and sediment basins before leaving the site. Silt barriers shall be installed at borders of disturbed area and where water flows onto streets. Secondary levels of protection by utilizing multiple devices are more desirable than single large sediment basins.

5. Non-Sediment Pollution Prevention

Construction site wastes shall be managed. Plans for spill prevention and control shall be developed. Personnel shall be aware of requirements.

**Section 3.** The Director of Public Works is hereby authorized and directed to develop and maintain a Sediment and Erosion Control Manual, a copy of which is attached hereto as Exhibit 1 and made a part hereof. Said manual shall establish minimum requirements, provide guidance and additional resources to facilitate control of soil erosion on land that is undergoing development for non-agricultural uses and to preserve the natural terrain and waterways within the incorporated limits of the City of Chesterfield. The Director of Public Works is hereby authorized to update and modify the manual, as may be necessary, with the approval of the Public Works/Parks Committee of Council.

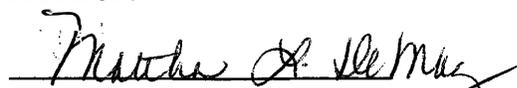
**Section 4.** Chapter 12 of the Code of the City of Chesterfield is hereby revised as attached hereto, and incorporated as part of this ordinance.

**Section 5.** This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 20<sup>th</sup> day of OCTOBER, 2003.

  
Mayor

ATTEST:

  
City Clerk

## GRADING, EROSION, AND SEDIMENT CONTROL

### ARTICLE I. IN GENERAL

**Secs. 12-1—12-15. Reserved.**

### ARTICLE II. GRADING PERMITS

**Sec. 12-16. Definitions.**

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein.

*Adverse Impact.* A negative impact on land, water, and associated resources resulting from grading activity. The negative impact includes increased risk of flooding, degradation of water quality, increased off-site sedimentation, reduced groundwater recharge, adverse effects on aquatic organisms, wildlife, and other resources, and threats to public health, welfare and safety.

*Applicant.* The person responsible for the grading activity who executes the necessary forms to obtain a grading permit subject to this Chapter. This definition encompasses co-applicants.

*Best Management Practices or BMPs.* Practices, procedures or a schedule of activities to reduce the amount of sediment and other pollutants in storm water discharges associated with construction and grading activities. For examples of BMPs, refer to the City of Chesterfield's Sediment & Erosion Control Manual.

*City.* The City of Chesterfield.

*Clearing.* Any activity that removes vegetative surface cover.

*Code.* The Code of the City of Chesterfield, Missouri.

*Contractor.* A person who contracts with the owner, developer, or another contractor to undertake any or all grading activities covered by this Chapter. This definition encompasses subcontractors.

*Developer.* Any person causing the performance of grading activities, and/or any subsequent construction activity associated with improvements or modifications on any portion of the site.

*Department.* The Department of Public Works of the City of Chesterfield.

*Director of Public Works (Director).* The Director of Public Works for the City of Chesterfield, Missouri, or the Director of Public Work's authorized representative.

*Erosion.* The wearing away of the land surface by the action of wind, water or gravity.

*Erosion Control or Sediment Control.* Practices, measures or a schedule of activities to reduce the wearing

away of the land and reduce the sediment and other pollutants carried by stormwater, wind or gravity.

*Excavation.* Any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, uncovered, removed, displaced, relocated or bulldozed, and shall include the conditions resulting therefrom.

*Fill or Filling.* Any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pushed, pulled or transported to a place other than the place from which it was excavated and shall include the conditions resulting therefrom.

*Grading or Grading Activity.* Clearing, excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

*Grading Permit.* Written approval from the City of Chesterfield authorizing grading activities.

*Grading Plan.* A plan that accurately depicts a representation of the existing, intermediate and final rough grading prior to construction of improvements and structures.

*Inspector.* A person who, under the direction of the Director of Public Works, reviews any grading activity for compliance with this Chapter.

*Licensed Engineer.* A person registered as a Professional Engineer in the State of Missouri by the Missouri Board of Architects, Professional Engineers and Land Surveyors.

*Non Point Sources and Land Disturbance Permits (NPDES).* Refers to Section 402 of the Missouri Department of Natural Resource's Water Pollution Control Program.

*Owner.* A person, firm, or governmental agency, or other entity holding legal title, or possession or control of the land.

*Permittee.* The applicant in whose name a valid permit is duly issued pursuant to this Chapter, and his/her agents, employees, and others acting in his/her direction.

*Person.* Any individual, firm, partnership, joint venture, association, club, fraternal organization, corporation, estate, trust, receiver, organization, syndicate, city, county, municipality, district, or other political subdivision, or any other group or combination acting as a unit, and any agency or instrumentality thereof.

*Sediment or Sedimentation.* Solid material, mineral or organic, that has been moved from the point of origin by erosion.

*Sediment and Erosion Control Manual (Manual).* A manual which establishes minimum requirements, and provides guidance and additional resources to facilitate control of soil erosion on land that is undergoing development for non-agricultural uses, and to preserve the natural terrain and waterways within the incorporated limits of the City of Chesterfield.

*Site.* Contiguous lots, tracts, projects or subdivisions of a single owner or several owners.

*Storm Water Pollution Prevention Plan (SWPPP).* The SWPPP covers required sediment and erosion control practices specific to site conditions and maintenance and adherence to the SWPPP plan. Its purpose is to ensure the design, implementation, management and maintenance of BMPs in order to reduce the amount of sediment and other pollutants in storm water discharges associated with land disturbance activities, comply with the Missouri Water Quality Standards and ensure compliance with the terms and conditions of the NPDES.

#### **Sec. 12-17. Permit required.**

Except as herein provided, no grading activity shall commence on any site without obtaining a grading permit from the Department. Such activities include clearing, excavation or fill or any combination thereof within the limits as shown on the approved grading plan and in accordance with the SWPPP. A separate permit shall be required for each site, provided however that, one permit may cover both the excavation and fill made from excavated materials. An application for a grading permit shall be in writing on forms provided by the Department, and filed with the Department.

#### **Sec. 12-18. Exceptions.**

A grading permit shall not be required in the following instances, provided that no change in drainage patterns or sedimentation onto adjacent properties will occur:

- (1) Grading for the foundation or basement of any building structure or swimming pool for which a building permit has been duly issued;
- (2) Grading activities on previously developed property which results in a disturbance of less than 5,000 square feet.
- (3) Grading for or by any public utility for the installation, inspection, repair or replacement of any of its facilities;
- (4) Grading of property for or by any governmental agency in connection with a public improvement or public work on said property;
- (5) Grading of land for farming, nurseries, landscaping, or gardening or similar agricultural or horticultural use whenever there is substantial compliance with recommendations or standards of the local soil conservation authority;
- (6) Grading activities in public rights-of-way covered by an appropriate special-use permit;
- (7) Grading activities in quarries and permitted sanitary landfills.

#### **Sec. 12-19. Minimum requirements.**

The Manual, as may be updated and modified by the Department, sets forth minimum requirements that must be met in order to obtain a grading permit. This document also provides guidance and additional resources to facilitate control of soil erosion on land that is undergoing development.

### **Sec. 12-20. Application procedure.**

An application for a grading permit shall be in writing on forms provided by the Department, and submitted to the Department. The application shall be completed in the form and manner prescribed by the Department and shall include required information as outlined in the Manual. The grading plan and the SWPPP shall be prepared and sealed by a licensed engineer, unless the requirement is specifically waived by the Director.

### **Sec. 12-21. Surety.**

(a) *Performance Guarantee.* Prior to the issuance of a grading permit, the applicant shall deposit a surety with the City as described below and as required for particular sites. Said grading permit shall be issued upon the approval of the Department and the applicant depositing with the City a sum equal to that which would be required to guarantee the performance, restoration, maintenance and/or rehabilitation of said site based upon the approved grading plans and the approved SWPPP. In the case of owners, contractors or builders, who have previously violated the subject and provisions of this section, the amount of the surety shall be increased in each case based on such previous experience.

(b) If at anytime the Department determines that the surety deposited with the City is in an amount that is not sufficient to guarantee the performance, restoration, maintenance and/or rehabilitation of the site based upon the approved grading plans and the approved SWPPP, the permittee shall deposit additional surety with the City in an amount determined by the Department within fifteen (15) days after receiving notification from the Department. If the permittee does not deposit the additional surety with the City, the Department may issue a Stop Work Order as outlined in Section 12-27 (f) of this Chapter.

(c) The surety shall be released as detailed in the Manual.

(d) Any portion of the deposit not expended or retained by the City hereunder shall be refunded when the grading operation is completed and the soil and drainage conditions are stabilized to the satisfaction of the City.

(e) The Director may perform, or have performed, any work necessary to restore, maintain and/or rehabilitate the site based upon the approved grading plan, approved SWPPP, and/or the requirements of this Chapter. All costs incurred in the performance of this work shall be charged against the surety the applicant deposited for the grading permit. By applying for a grading permit, the applicant consents to the City or its contractor entering the property and holds them harmless regarding any work that they perform.

### **Sec. 12-22. Inspections.**

By applying for a grading permit, the applicant consents to the City inspecting the proposed development site and all work in progress. Inspections shall be made by the Department and the applicant as detailed in the Manual. Applicant shall notify the City upon commencement and completion of the following; clearing, rough grading, finish grading before seeding; and all reestablishment and construction work. Said notice shall be in writing to the Department.

### **Sec. 12-23. Use of streets during grading operations.**

(a) *Notice.* At least five (5) working days prior to the use of any street in the City by trucks or hauling or grading equipment engaged in grading activities in the City which requires the use of the streets maintained by the City, the contractor in charge may be required to submit a written report to the Department, specifying the kind and description of trucks or hauling or grading equipment, and the loaded, and unloaded weight of trucks and hauling equipment, and the number of each and the length of time they will be required to use the streets of this City. The contractor shall furnish the Department with all other information required of him to estimate or determine the amount of wear and tear, or damage, if any, that may be caused to streets by such usage. The applicant shall also provide the Department visual documentation, such as a video, and/or photographs, of the existing condition of the streets to be used. Before construction actually commences or while the work on the streets is in progress, the Department may require the applicant to post a pavement restoration bond, in such sum as is directed by the Department, with the City to guarantee the City compensation for any damage to streets, curbs, sidewalks or public facilities.

(b) *Routes.* The Department shall, at least two (2) working days before the commencement of work and usage of the streets of the City, notify the contractor of the route or routes to be used by such trucks and equipment. The permittee and contractor shall be charged with the duty of seeing that the trucks or equipment use only the route or routes approved by the Department. In the event of any emergency requiring a change in route or routes, or if the Director finds or determines that any route or routes so designated are not safe or that excessive damage is being caused to any street or streets in the City by such usage, or if he finds the welfare of the City so requires, he may, upon one day's notice to the permittee and contractor, order that the trucks or equipment use only the alternate route or routes so designated by the Director.

(c) *Inspection.* The Director shall cause a thorough inspection to be made of the condition of the pavement of the streets designated and used under the permit as well as the curbs and sidewalks, and shall make written reports of his findings, including with his report after termination of the work, his estimate of the cost of restoring the street, curbs and/or sidewalks to their original condition.

### **Sec. 12-24. Damage to streets, etc.**

At the time the Department of Public Works approves the route or routes to be used as provided in Sections 12-23, the applicant shall be notified that the City will hold the applicant liable for unusual wear and tear or damage to the streets, curbs, and sidewalks resulting from such usage, and that acceptance of the route or routes by the applicant shall constitute an agreement on his part to pay the reasonable cost of restoring the streets, curbs and sidewalks in question to their original condition. Within thirty (30) days after notification, the applicant shall cause the streets, sidewalks and curbs to be restored to their original condition. Failure to affect the repairs shall be cause for action against the surety.

### **Sec. 12-25. Construction dirt, debris, waste.**

(a) *BMP's at construction site.* After excavation or construction is commenced, on any lot or tract of land in the City, and until sodding, planting, concreting, paving or other final surfacing is in place which will avoid washing or spreading of dirt and mud onto other property, sidewalks, curbs, gutters, streets and the space between sidewalks and curbs, the permittee, the owner of the property, contractor or developer in charge

of work, shall construct and maintain temporary siltation control devices or other approved measures to prevent such washing or spreading of mud or dirt. As may be required throughout the day, during the course of excavating or construction, dirt and mud on the sidewalks, curbs, gutters and streets, and the space between sidewalk and street, resulting from work, must be removed.

(b) *Removing mud from vehicle wheels.* The permittee, owners, contractors, and developers, jointly and severally, shall provide their personnel with shovels, a washdown station, or other equipment as necessary to remove dirt from the wheels of all vehicles leaving any clearing or grading site where mud has accumulated on the wheels, before such vehicles enter any public or private street of the City. It shall be unlawful for the permittee, or any owner, contractor, developer to permit any vehicle to leave such place with mud on the wheels which is liable to be dispersed over any public or private street of the City, and it shall be unlawful for any driver of a vehicle to enter upon the public or private streets of the City without having removed or had mud removed from the wheels prior to such entry. Each occurrence shall be a separate offense.

(c) *Spilling materials on streets.* The permittee, owners, contractors, and developers, jointly and severally, who may load dirt, mud or other materials on any vehicle at any grading site in the City, during construction or otherwise, shall so load the same that no portion thereof shall be spilled or be liable to be spilled on the streets of the City, in violation of this provision, and it shall be unlawful for any driver to operate a vehicle on the streets of the City which is loaded in such manner that it spills or is liable to spill mud, dirt, or other materials on the streets.

(d) *Boards over sidewalks.* Boards, tracks, or other protection must be laid over sidewalks, curbs and gutters to avoid dirt and mud accumulating therein, as completely as possible and to prevent breakage or damage to such installations, of whatever material constructed. Damage to walks, curbs and gutters will be repaired by the permittee, owner, contractor, or developer, or the Director may, upon ten (10) days notice, cause to have them repaired at the permittee's, owner's, contractor's or developer's expense.

(e) *Waste material.* During the course of construction, excavation, or grading, the permittee, owners, contractors, and developers are required to collect and dispose of all paper, refuse, sticks, lumber and other building waste, and all other waste material, and to prevent the same from blowing or otherwise being scattered over adjacent public or private property. Any waste material that is blown or scattered over the site, as well as, on any adjacent public or private property, shall be picked up daily, and disposed of properly. Washout from concrete trucks must be controlled in a manner so as not to adversely impact the site, adjacent public or private property, or adjacent streams and storm sewer systems.

(f) *Sanitary Facilities.* Adequate provisions must be made for sufficient temporary sanitary facilities to serve the number of workers on the site.

(g) *Planting ground.* All disturbed areas shall be sodded, planted, concreted, paved or otherwise surfaced within 14 calendar days after completion of each phase of work, to avoid washing or spreading of dirt and mud onto other property, sidewalks, curbs, gutters, streets and the space between sidewalks and curbs. If determined by the City that an undue hardship exists because of unfavorable ground conditions, the City may grant an extension of time by which the disturbed areas have to be surfaced.

(h) *Grading.* All grading activity shall be conducted in conformance with the hours of operations as

specified in the Code as may be amended or replaced.

#### **Sec. 12-26. Spill prevention and control facilities.**

(a) The permittee shall take appropriate measures to prevent spills, and shall develop necessary control facilities for materials such as paint, solvents, petroleum products, chemicals, toxic or hazardous substances, substances regulated under the Resource Conservation and Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and any wastes generated from the use of such materials and substances, including their containers. Any containment systems employed to meet this requirement shall be constructed of materials compatible with the substances contained and shall be adequate to protect both surface and ground water.

(b) On-site fueling facilities shall adhere to applicable federal and state regulations concerning storage and dispensers.

#### **Sec. 12-27. Enforcement.**

(a) *Agency responsibility.* Enforcement of this Chapter shall be the responsibility of the City of Chesterfield or official(s) as determined by the City.

(b) *Responsible parties for enforcement purposes—defined.* The party or parties responsible and liable for actions or non-action taken in relation to this Chapter, including responsibility for abating violations of this Chapter, shall be the owner, applicant, any co-applicants, permittee, contractor, developer and any other responsible party and employees thereof.

(c) *Complaints.* The City shall receive complaints and inquiries and route the complaint/inquiry to the appropriate responsible enforcement agency.

(d) *Notice of Violation/Stop Work Order.* If a complaint investigation or inspection results in a finding of noncompliance with this Chapter, the appropriate inspector is authorized to issue a notice of violation (NOV) that may, at the discretion of the inspector, include a stop work order (SWO).

(e) *Content of NOV.* The NOV shall specify the deficiencies, what corrective action is necessary, and a specific timeframe in which the responsible party is to achieve compliance.

(f) *Stop Work Order.* Issuance of a SWO shall result in a suspension of all construction activity on the site, except for work related to remediation of the violation, until the violation is resolved to the City's satisfaction. The SWO shall also suspend the right of the permittee, applicant, owner, contractor, developer or any related entity to build or construct any structure or public improvement on any portion of the site. The Director of Public Works and the Director of Planning, upon the issuance of a SWO, are authorized to suspend the issuance of building permits and occupancy permits for structures on any portion of the site, and to suspend all inspections and plan review related to any other work that is taking place on the site, until such time as the violation is resolved to the City's satisfaction. SWO's shall specifically state the provisions of this Chapter or the grading permit being violated. Any person, who shall continue any work in or about the site after having been served with a SWO, except such work related to remediation of the violation, shall be

subject to penalties as specified in Section 12-28 of this Chapter of the Code.

(g) *Service of NOV and Stop Work Order.* The written NOV, including a SWO as applicable, shall be mailed, postage pre-paid, to both the permittee and owner. All SWO's that are issued by the Department must be posted on the site on which the grading activity is taking place, and in reasonable proximity to a location where the grading activity is taking place. All SWO's posted in this manner shall be considered validly delivered.

(h) *Issuance of summons to court.* It shall be the responsibility of the owner to ensure that no violation of this Chapter occurs on his property. If the responsible party fails to comply with the NOV or there is no immediate settlement, a summons to court may be issued to the responsible party. The summons to court shall contain all the information required by the Code. The Department of Public Works shall have the option of issuing a summons to court immediately upon discovery of a violation, in lieu of a NOV.

(i) *Summons, service of.* The inspector shall fill out and sign as the complainant a complaint and information form, hereinafter referred to as a summons, directed by name to the responsible party, showing the address or legal description of property on which the violation is located, and such other information as may be available to the inspector as shown on the summons, and specifying the selection of this ordinance or grading permit which is being violated, and may serve the summons on the responsible party or any or all of such persons. The summons shall contain a date on which the case will be on the municipal court docket for hearing. The City Prosecuting Attorney shall sign the original copy of all such summons, and the original thereof shall be forwarded to the Clerk of the Municipal Court for inclusion on the court's docket for the date shown on the summons.

(j) *Summons, delivery by mail.* If no one is found at the property to accept a summons the inspector shall fill out and sign the summons as the complainant as provided in subsection (i) and deliver the original and one copy of the summons to the Clerk of the Municipal Court, who shall verify or insert the date that the case has been set for hearing before the Municipal Court. The Clerk shall then mail the copy of the summons by ordinary mail, postage prepaid to the person named therein at the address shown on the summons, or at such other address as the person charged therewith may be found, or shall be known to reside. If the mail is duly addressed to the person named in the summons at the address as provided above and is not returned to the City, it shall be deemed to have been delivered and received by the person to whom addressed.

(k) *Abatement by City; costs assessed to responsible party.* If the responsible party for property for which a notice of violation has been issued fails to abate the violation in the time specified in the notice, whether on public or private property, the City may without further notice abate the violation and, if necessary, may lawfully enter upon the property on which the violation remains unabated to abate such violation at the cost of the responsible party for creating or maintaining the violation.

(l) *Payment of costs; use of surety, special tax bill or judgment.* All costs and expenses incurred by the City in abating any violation may be deducted from the surety deposited with the City or assessed against the property in the form of a special tax bill, which special tax bill shall become a lien on the property. Alternatively, the cost of abating the violation, whether on public or private property, may be made a part of the judgment by the Municipal Judge, in addition to any other penalties and costs imposed, if the person charged either pleads guilty or is found guilty.

**Sec. 12-28. Penalties for violation.**

Violation of this Chapter shall be a municipal violation, punishable by a fine of not less than five dollars (\$5.00) and not more than five hundred dollars (\$500.00) if issuance of a summons and complaint is by anyone other than a police officer, if the summons or complaint is issued by a police officer or other certified law enforcement official, the punishment may also include imprisonment for a period not to exceed three (3) months or by both fine and imprisonment. Each occurrence, location, and vehicle constitutes a separate offense, and each and every day that such violation shall continue shall be an additional violation with each violation being punishable by a separate fine and imprisonment.