

DATE: _____

PERMIT # _____



City of Herculaneum

#1 Parkwood Court
Herculaneum, Mo. 63048

Phone: (636) 475-4447 Email: dgraves@cityofherculaneum.org Fax: (636) 475-6191

Land Disturbance/Erosion Control Permit Application

Address of property: _____

Applicant: _____

These are minimal submittal requirements for any project

(1.) Narrative

A. Describe type of project e.g. (new house) (pool) (retaining wall)

B. Total in square feet of soil disturbance sq. ft. _____

are you importing any top soil or fill? Yes () No ()

C. Describe what type of erosion control will be used (hay bales, silt fencing)

D. Target date for sod or seed and straw: _____

(2.) Drawing: attach copy of plat with project and silt control drawn in, or on back of permit, drawing of plat with project and silt control drawn to scale.

I understand that failure to comply with erosion control plan, could result in legal action, and a stop work order will be issued. All erosion control measures will be installed at the start of project.

Applicant: _____

Fee: \$30.00 Date: _____ Ck# _____ Rec#: _____

Building & Code Official: _____

Dodie Graves

CHAPTER 460 LAND DISTURBANCE AND STORMWATER MANAGEMENT

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Chapter 460: Land Disturbance and Stormwater Management

Section 460.010 General

- A. No person shall undertake any land disturbance activity or in any way disturb the surface of one acre or more of land, except as otherwise provided by law or provided in this Section.
- B. No person shall engage in any land disturbance activity or by any action cause or permit any soil, earth, sand, gravel, rock, stone, or other material, to be deposited upon or to roll, flow, or wash upon or over the premises of another in an unlawful manner without the express written consent of the owner of the premises affected. No person shall engage in any land disturbance activity or by any action in violation of Chapter 460 cause or permit any soil, earth, sand, gravel, rock, stone, or other material to be deposited to roll, flow, or wash upon or over any public street, street improvement, road, sewer, storm drain, watercourse, rights-of-way, or any public property.
- C. No person engaged in any land disturbance activity shall, when hauling soil, earth, sand, gravel, rock, stone, or other material over any public street, road, alley, or public property, allow those materials to blow, spill or be tracked over and upon any street, road, alley, or public property or adjacent private property.
- D. This Section shall apply to all land disturbance activities requiring a permit within the City of Herculaneum, Missouri.
- E. No person shall engage in any activity that would be in violation of the regulations dictated by the Phase II Storm Water National Pollutant Discharge Elimination System (NPDES) in accordance with the Clean Water Act of 1972.

Section 460.020. Purposes of Section

The purpose of the Section is to protect and further the public interest by regulating land disturbance, filling, stripping and soil storage in connection with the clearing and grading of land for construction-related or other purposes. With these regulations, the City will promote the coexistence of the natural environment with planned development; assist in the City's efforts to comply with the Phase II Storm Water National Pollutant Discharge Elimination System (NPDES) regulations; provide effective stormwater management; protect property from damage due to flooding and erosion; improve water quality and reduce water pollution; control construction site impacts on stormwater; prevent non-stormwater discharges into the storm sewer system; protect natural stream assets using buffer strips; and protect valuable natural water resources. This includes protection of existing vegetation for use as buffer strips. The City hereby recognizes that the nature of temporary construction controls is time critical. Techniques and objectives are encouraged by the City to promote coexistence of the natural environment and planned development. It is also the purpose of this Section to encourage responsible development and minimize the impacts of development.

This Section establishes substantive and procedural requirements to:

- A. Protect the water quality of the streams, rivers, lakes and drainage areas within The City of Herculaneum. To be in compliance with the Phase II Stormwater National Pollutant Discharge Elimination System (NPDES) as mandated through the Clean Water Act,

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specific activities must be undertaken and regulated by the City. This Section establishes substantive and procedural and enforcement requirements for:

1. Illicit discharge detection and elimination
2. Construction site stormwater runoff control
3. Post-construction stormwater management in new development and redevelopment

The Erosion and Sediment Control/Stormwater Management Design Manual contains the activities and Best Management Practices (BMPs) required to fulfill these requirements.

- B. Protect and enhance the water quality of watercourses, water bodies, and wetlands by controlling erosion, sedimentation, and related environmental damage caused by construction-related or other activities; and
- C. Encourage creative approaches to development, including Low Impact Development (LID), that are designed and implemented to be sensitive to the natural environment thereby resulting in high quality development for those who visit, reside, and work in the City.

Section 460.030. Definitions

In this Section, these words and phrases have the following meanings:

- A. *Approved plan* - A set of representational drawings or other documents for a site that contain the information and specifications required by the City to minimize off-site sedimentation from land disturbance activities. The approved plan constitutes a Storm Water Pollution Prevention Plan (SWPPP), required by Section 460.090 that has been approved by the City as complying with the provisions of this Section.
- B. *Applicant* - Any person who makes application for a land disturbance permit, as required by this Section.
- C. *Application* - A proposed plan of representational drawings and/or other documents submitted for a Land Disturbance permit for a site. The application may be an independent submittal or may be a part of another Development Application or Applications authorized by the City Code.
- D. *As-built plan* - A sealed drawing or plan prepared and certified by a licensed professional that depicts the actual dimensions, and elevations of the completed storm water system and detention structures or facility.
- E. *Best Management Practices (BMPs)* - Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. Best Management Practices (BMPs) also include

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treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

- F. *Buffer/Buffer Strip* - An area closest to a sensitive environmental site (e.g., wetland, waterbody, etc.) in which certain human activities are limited in order to minimize the negative impacts from adjacent land uses (like erosion, pollutants in runoff, disturbance to wildlife) affecting the sensitive environmental site.
- G. *Buffer Strip Enhancement Plan* - A plan that identifies improvements made to the Streamside Zone and/or Outer Zone of the buffer strip.
- H. *Building Official* - The individual appointed by the Mayor and Board of Alderman as a duly authorized representative.
- I. *Clearing* - Any act by which vegetative cover, structures or surface material is removed, including, but not limited to, root mass or topsoil removal.
- J. *Development Application* - All applications required by the City Code as a prerequisite to initiation of land disturbance.
- K. *Domestic Sewage* - Sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.
- L. *Erosion* - The process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or land disturbance activities.
- M. *Erosion and Sediment Control/Stormwater Management Design Manual* - The erosion and sediment control and stormwater design criteria adopted in writing, as authorized by Section 460.050 C.
- N. *Excavating* - Any act by which soil is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed, and includes the conditions that result from that act.
- O. *Federal project* - Any project on federally owned land that involves land disturbance or any project that involves land disturbance activity and is administered by a federal agency. Use of federal funds does not necessarily qualify an activity as a federal project.
- P. *Filling* - Any act, by which soil is mechanically deposited, placed, pushed, pulled, or transported, and includes the conditions that result from that act.
- Q. *Finished grade* - The final grade or elevation of the ground surface conforming to an approved plan.
- R. *Floodplain* - The floodway and floodway fringe as identified by the Federal Insurance Program through its Flood Insurance Rate Map, for Herculaneum, Missouri, dated April 5, 2006 and subsequent revisions.

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- S. *Garbage* - The decaying animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.
- T. *Grading* - Any act by which soil is cleared, stripped, moved, leveled, stockpiled, or any combination thereof, and includes the conditions that result from that act.
- U. *Household Hazardous Waste (HHW)* - Any material generated in a household (including single and multiple residences) that would be classified as hazardous.
- V. *Illegal Discharge* - See illicit discharge below.
- W. *Illicit Discharge* - Any discharge to the storm drainage system that is prohibited under this document.
- X. *Illicit Connection* - Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.
- Y. *Land disturbance Activity* - Any act other than those related to agricultural activity by which soil is moved and land changed that may result in erosion or the movement of sediments, and may include tilling, clearing, grading, excavating, stripping, stockpiling, filling and related activities, and the covering of land surfaces with an impermeable material. A Land Disturbance Permit is required when land is disturbed.
- Z. *Licensed Professional* - An individual who is duly licensed by the Missouri Board of Architects, Professional Engineers and Professional Land Surveyors, to practice and seal land disturbance/stormwater management requirements within their discipline.
- AA. *Low Impact Development (LID)/Conservation Development* - A comprehensive technology-based approach to managing urban stormwater. See Erosion and Sediment Control/Stormwater Management Design Manual for guidance.
- BB. *Maximum Extent Practicable* - The use of those best management practices, which based on sound engineering and hydro-geological principles, regulate and manage erosion and sedimentation during and after development.
- CC. *Permit* - The land disturbance permit issued by the Building Official authorizing land disturbance activities with the requirements of this Section.
- DD. *Permittee* - Any person to whom a land disturbance permit is issued pursuant to this Section.
- EE. *Private Drainage System* - All privately or publicly owned ground, surfaces, structures or systems, that contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

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- FF. *Responsible personnel* - Any person designated in the permit qualified as the person in charge of on-site land disturbance activities or erosion and sediment control associated with land disturbance activities; the responsible personnel shall provide the City, as part of the permit issuance, with a contact telephone number so that the City may reach such person in the event the City desires to conduct an inspection of the site at which land disturbance activities are underway.
- GG. *Rubbish* - Non-decaying solid waste, excluding ashes that consist of: combustible waste materials- including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and, noncombustible waste materials- including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).
- HH. *Sediment* - Soils or other earthen materials transported or deposited by the action of wind, water, ice, gravity or artificial means.
- II. *Septic Tank Waste* - Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.
- JJ. *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 in an application.
- KK. *Slope* - The inclined surface of a fill, excavation, or natural terrain expressed as a ratio of horizontal distance to vertical distance.
- LL. *Soil* - The unconsolidated mineral and organic material (i.e., earth, sand, gravel, rock or other similar material) on the immediate surface of the earth that serves as a natural medium for the growth of land plants.
- MM. *State project* - Any project on state-owned land that involves land disturbance activity or any project that involves land disturbance activity and is administered by a state agency. Use of state funds does not necessarily qualify an activity as a state project.
- NN. *Storm Water Pollution Prevention Plan (SWPPP)* - A plan outlining specific land disturbance activities at a site and the design implementation management and maintenance of "Best Management Practices" in order to prevent and reduce the amount of sediment and other pollutants in stormwater discharges.
- OO. *Stripping* - Any activity by which the vegetative cover is removed or disturbed, including tree removal, clearing, grubbing and storage, or removal of topsoil.
- PP. *Vegetative Cover* - Any grasses, shrubs, trees and other vegetation that holds and stabilizes soils.
- QQ. *Watercourse or drainageway* - Any natural or artificial watercourse, associated with activities regulated by this Section of the Land disturbance and Stormwater Management Plan, including streams, rivers, creeks, ditches, channels, canals, conduits, culverts,

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drains, waterways, gullies, ravines, or washes in which water flows in a definite direction or course, either continuously or intermittently.

- RR. *Watersheds* - An area of land that water runs across or under on its way to a stream or river that is located at the lowest point in the watershed.
- SS. *Watershed Plan* - Strategy that provides assessment and management information for a geographically defined watershed, or subwatershed, including the analyses, actions, participants, and resources related to developing and implementing the plan.
- TT. *Wetlands* - Those areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include the following surface waters of the state intentionally constructed from sites that are not wetlands: drainage ditches, grass-lined swales, and landscape amenities.
- UU. *Yard Waste* - Leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

Section 460.040. Policy/Administration

It is the policy of the City that all land disturbance activity be performed in a manner consistent with the requirements of this Section, except as otherwise specifically provided, in a manner that promotes the co-existence of the natural environment and quality, planned development, effective stormwater management and responsible development.

- A. *Regulations.* The Building Official may prepare or cause to be prepared and may recommend the adoption of regulations necessary to implement this Section.
- B. *Construction Standards.* The Building Official is hereby authorized to prepare for adoption by the City construction standards for erosion and sediment controls based upon sound engineering judgment after conducting public hearings with an opportunity for notice and comment as provided in Land Use Section of the Herculaneum Municipal Code of Ordinances. Copies of any such construction standards shall be available in the office of the Building Department two weeks prior to any public hearing at which they are to be considered and such standards shall not become effective, except in an emergency, until at least thirty days after their adoption by the City.
- C. *City's Right to Enter.* In making an application for a permit covered by this Section, the applicant or the landowner performing or allowing the work shall cooperate with the City in the processing and administering of the permits, including being reasonably available for site inspections, so that the City may verify compliance with the approved plan. If work is necessary to bring the site into compliance with the approved plan prior to entering the site, the City shall contact the applicant's responsible personnel or the landowner and give them the opportunity to accompany the City personnel on any site visit. Except in an emergency, the city shall give an applicant or landowner at least twelve hours prior notice of any such inspection.

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- D. *Waiver of Requirements* - The Building Official is here by authorized to waive any requirement contained in this Section upon a finding that for the purposes and policy of this Section, as set forth in Sections 460.020 and 460.040 respectively, are otherwise accomplished.

Section 460.050. Erosion and Sediment Control/Stormwater Management Design Criteria

- A. The City shall, by resolution, adopt the Jefferson County Erosion and Sediment Control/Stormwater Management Design Manual. The Building Official may recommend an existing manual to the City for adoption or may prepare or have prepared an Erosion and Sediment Control/Stormwater Management Design Manual and recommend its adoption by the City. The Building Official shall maintain the Erosion and Sediment Control/ Stormwater Management Design Manual adopted by the County.
- B. Grading erosion control practices, sediment control practices, and waterway crossings shall comply with the erosion and sediment control/stormwater design criteria, and shall be adequate to prevent erosion and the transportation of sediment from the site to the maximum extent practicable. Cut and fill slopes shall be no greater than 3:1, except where recommended on an engineering soils report prepared by an engineer licensed in the State of Missouri.
- C. Buffer Strips.
1. Clearing and grading of natural resources, such as buffer strips along designated natural streams, forests and wetlands, shall not be permitted, except when in compliance with this Section and all other Sections of this Code. Land disturbance activities with buffer strips that retain natural vegetation and drainage patterns as described in the Erosion and Sediment Control/Stormwater Design Manual, are encouraged by this Section. No land disturbance shall occur on any parcel of land that is within or partially within a defined buffer strip unless the land disturbance is in compliance with the provisions of this Section.
 2. Land disturbance and development shall not occur in floodways, unless allowed by a flood plain development permit as approved by the City.
 3. Land disturbance or development shall not occur along watercourses within 50 feet from the top of the bank on first and second order streams and 100 feet from the top of the bank on third and higher order streams, wetlands, and sink holes, except as provided for in Section 460.050.D. This strip of land is called the Buffer Strip and consists of the area of land extending along a side of a stream. If a watershed plan has been developed for a watershed within City, and accepted by the Board of Aldermen, unique conditions in that watershed may dictate the need for a wider buffer strip. In those cases, the recommendation for riparian buffer strips in the watershed plan will be the controlling factor.
 4. Buffer strips are divided into two zones, the Streamside Zone and the Outer Zone. The Streamside Zone is the area within twenty-five (25) feet from the top of the bank on first and second order streams and fifty (50) feet from the top of the bank

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on third and higher order streams, wetlands, and sink holes. The Outer Zone is the area outside of the Streamside Zone within fifty (50) feet from the top of the bank on first and second order streams and one-hundred (100) feet from the top of the bank on third and higher order streams, wetlands, and sink holes.

5. The natural conditions of a buffer strip should not be altered, except as allowed by this Section. The following activities are prohibited in a buffer strip, except with City approval granted in Section 460.050.C.7 or Section 460.050D:
 - a. Any land disturbance activity, such as clearing, grading, stripping, filling, or dumping.
 - b. Mowing.
 - c. Storage or operation of motorized vehicles, except for maintenance or emergencies.
 - d. Septic tanks or drainfields.
 - e. Structures and other impervious surfaces or cover.
 - f. Stormwater retention or detention facilities.
 - g. Housing, grazing, or other maintenance of livestock.
 - h. Riding of horses, except on existing trails.

6. The following structures, practices, and activities are allowed in the Streamside Zone of a buffer strip, subject to meeting all other Sections of this Code.
 - a. Recreational uses such as walking, fishing, bird watching, unpaved trails, and greenways.
 - b. Education and scientific research.
 - c. Roads, bridges, paths, and utilities, including crossings by transportation facilities or utility lines, upon receiving all applicable federal, state, and County permits and meeting the requirements of this Section.
 - d. Stream restoration projects, facilities, and activities approved by the Missouri Department of Natural Resources and U.S. Army Corps of Engineers.
 - e. Water quality monitoring and stream gauges.
 - f. Removal of individual trees in danger of falling, causing damage to structures, or blocking the stream.
 - g. Temporary stream, stream bank, and re-vegetation projects to restore or enhance a buffer strip.
 - h. Docks and boat launches approved by MoDNR and the City.
 - i. Other uses permitted under Chapter 460 or Section 404 of the Clean Water Act.
 - j. Site investigation work necessary for land use applications.

7. The following structures, practices, and activities are allowed in the Outer Zone of a buffer strip, subject to meeting all other Sections of this Code.
 - a. All of the structures, practices, and activities allowed in the Streamside Zone.
 - b. Existing and ongoing agricultural activities.
 - c. Conservation uses, wildlife sanctuaries, nature preserves, and passive areas of parklands, such as campgrounds and picnic areas.
 - d. Paved recreation trails.

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- e. Excavation and fill activities required to plant new trees or vegetation.
 - f. Stormwater management.
 - g. Routine maintenance of landscaping.
 - h. Backyard area of a residential parcel, meeting the requirements of 460.050D2.
 - i. Backyard area of a commercial parcel, only when no portion of the Buffer Strip is impervious.
 - j. Control of noxious weeds and invasive species.
8. All subdivision plats, improvement plans, site development plans, and Storm Water Pollution Prevention Plan (SWPPP) shall show and label the buffer strip on the property, provide a note that states there shall be no clearing, grading, construction, or disturbance of vegetation except as permitted by ordinance, and provide a note referencing a protective covenant maintaining the buffer strip in common ground, a drainage easement, or a conservation easement referenced by book and page, if possible, that restricts disturbance and use of the buffer strip.
 9. Developments and other projects subject to City approval shall be designed so that a buffer strip has access for inspection, maintenance, and stream-related construction activity allowed in 460.050 C6 and C7 applicable to the development or project.
 10. Preservation of a buffer strip shall be maintained in perpetuity and made the responsibility of the owner's association or property owner.

D. Buffer Strip Enhancement Plan.

1. Clearing, that is necessary to establish erosion and sediment control devices or enable development of the site and establishment of Best Management Practices (BMPs) such as detention and sediment basins shall be installed in accordance with the Storm Water Pollution Prevention Plan (SWPPP).
2. Residential land disturbance or development may occur, subject to approval of a land disturbance permit, within the Outer Zone of a buffer strip, upon submittal and approval by the City of a Buffer Strip Enhancement Plan for improvement to the Streamside Zone or the Outer Zone for encroachment of the Outer Zone. However, in no case shall any land disturbance or development be within the Streamside Zone of a buffer strip. The Streamside Zone shall be substantially vegetated with native plant species and shall be maintained and made to be preserved in native vegetation. Existing vegetated buffer strips shall be preserved. Buffer strips that are not substantially vegetated, or are subject to grading as part of the vegetation project or to stabilize the soils, shall be enhanced to become substantially vegetated. Use of plants, grasses, and other vegetation native to Missouri are encouraged.

Buffer Strip Enhancement Plan is to be designed by a licensed professional. An applicant may with permission from the City, encroach within the stream buffer area provided the applicant is able to demonstrate that the water quality and

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stream morphology will not be adversely affected or adequate mitigation provided to offset such adverse affects. Mitigation may include, but not be limited to the following:

- a. Installing additional erosion and sediment control.
 - b. If the stream has the potential for lateral movement, installing stream stabilization practices within the stream.
 - c. For those sites where vegetation does not exist, establishing vegetation.
 - d. Additional tree planting.
3. The restoration or enhancement of a buffer strip shall not be used as mitigation for another site. No offsite credits for on-site improvements. The Plan shall cover the entire buffer strip on the development site, include the area within 150 feet adjacent to the buffer strip, and shall provide the following information:
- a. The delineation and labeling of the stream buffer including its Streamside Zone and its Outer Zone.
 - b. A location map showing the limits of the FEMA delineated 100 year floodplain.
 - c. Delineated streams, other water bodies, wetlands, and sink holes on the property and 150 feet onto adjacent properties in the buffer strip.
 - d. The location and labeling of any activities or structures proposed in and within 150 feet of the buffer strip.
 - e. The delineation of all areas steeper than 3:1 slopes with the percent slope shown.
 - f. Identify the areas where there shall be no clearing, grading, filling, construction or disturbance of vegetation.
 - g. Provide language for any conservation easements governing the buffer strips.
4. In addition to 460.050D2, any reduced-width buffer strip shall be protected in perpetuity through the implementation of a legal mechanism such as a conservation easement. Physical mechanisms may also be necessary, such as implementation of an engineer's recommendation for a structural buffer to protect a slope or bank, installation of fencing, or protection of an upland area impacting the buffer strip.
5. Upon request, the City may alter the outer boundary of the Outer Zone of a buffer strip to allow for the presence of an existing structure as long as the Streamside Zone is not altered by the narrowing and no new structures are constructed in the buffer strip.
- E. Phasing or revision of grading plans, or revision of submitted and approved grading plans, if necessary, shall be approved by the City.

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- F. Erosion control techniques include, but not be limited to the following:
1. permanent or temporary stabilization shall be completed within seven (7) calendar days on all perimeter dikes, swales, ditches, perimeter slopes, and all slopes greater than 3 horizontal to 1 vertical (3:1); embankments of ponds, basins, and traps; and within fourteen (14) days on all other disturbed or graded areas;
 2. if seeding or another vegetative erosion control is used, it shall become established within two (2) weeks or the Building Official may require the site to be reseeded or a non-vegetative option be employed;
 3. special techniques that meet the erosion and sediment control design criteria on steep slopes or in drainage ways to ensure stabilization;
 4. stabilization of stockpiles as required under the applicable City or Department of Natural Resources (DNR) permit for the development;
 5. the entire site must be stabilized, using a suitable mulch layer or another method that does not require germination to control erosion, at the close of the construction season or siltation control structures or other suitable Best Management Practices (BMPs) provided for the management of sediment control;
 6. techniques shall be employed to prevent the blowing of dust or sediment from the site; and
 7. techniques that divert upland runoff past disturbed slopes and delivered to a non-erosive outlet shall be employed.
- G. Sediment control requirements include, but not be limited to:
1. settling basins, sediment traps or tanks, and perimeter controls;
 2. settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by the Building Official; and
 3. protection for adjacent properties and waterways by the use of a vegetated buffer strip in combination with perimeter controls.
- H. Watercourse or drainageway protection requirements shall include, but not be limited to:
1. a temporary stream crossing, approved by the Building Official, shall be installed if a wet watercourse will be crossed regularly during construction, but only if the Building Official determines that the stream crossing will not cause flooding of adjacent property;
 2. stabilization of the watercourse channel before, during, and after any in-channel work;

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3. all on-site stormwater conveyance channels shall be designed according to the erosion and sediment control design criteria; and
 4. stabilization to prevent erosion at the outlets of all pipes and paved channels.
- I. Construction site access requirements shall include, but not be limited to a temporary rock access road provided at all sites; or other measures required by the Building Official to ensure that sediment is not tracked onto streets by construction vehicles or washed into storm drains.

Section 460.055. Phase II Storm Water National Pollutant Discharge Elimination System (NPDES)

- A. No *person* shall *release* or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated stormwater, except as allowed under a National Pollutant Discharge Elimination System (NPDES) permit, the Department of Natural Resources (DNR), or this Code. Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
- B. No person shall construct, use, maintain or have continued existence of illicit connections to the storm drain system. This includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- C. No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, including connections of a commercial water filtration or water softener to the storm drainage system.
- D. No person shall maliciously destroy or interfere with Best Management Practices (BMP's) implemented pursuant to this document.
- E. No person shall throw, place or deposit in any stream, creek, lake, pond or river within the city limits any matter or thing liable to impede, impair or pollute the water therein, or to build, place, throw or deposit on or along the banks thereof, any structure or any matter or thing of any description liable to decay and produce any noxious gases or effluvia calculated to pollute or obstruct any of such waters in the City of Herculaneum.
- F. No owner or occupant of any lot, tract or parcel of land within the City limits will have a collection of water (excluding goldfish ponds, ponds or lakes) or shall remove any earth or soil from such lot, tract or parcel of land so as to cause water to collect therein and become stagnant, unclean, offensive or injurious to the individual, public health or the environment.
- G. No person shall stockpile any manure in the City in a floodplain or floodway, nor dump any manure to include but not limited to (human, livestock or pet waste) into any waterway or water body of the City of Herculaneum.

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- H. The City of Herculaneum shall have the right-of-entry to any lot, tract or parcel of land, by any of the inspectors or designee of the Building Official for the purpose of inspection of an illicit discharge. The City has the right to enter a Department of Natural Resources (DNR) permitted facility in the event of an overflow, obvious bypass such as, but not limited to the bypass of the sand filter, direct discharge, etc. The City has the right to make suggestions or recommendations and if the problem is of a serious nature that produces an immediate risk to the health of the residents of the City, the property of the residents of the City and any risk to the environment, the City can require on the spot corrections to fix the problem. All corrections shall still be made in accordance to Missouri Department of Natural Resources (DNR) regulations and/or the City suggestions.
- I. It shall be unlawful for any person, firm or corporation to cause or permit any sewage to be deposited, dumped, discharged or drained on the surface or sub-surface of the ground or about any public right-of-way or ditch within the City, except as allowed under a National Pollutant Discharge Elimination System (NPDES) permit, the Department of Natural Resources (DNR), or this Code. For the purpose of this section, sewage is defined as any substance that contains any of the waste products or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry. Such definition shall include but not be limited to the discharge from laundry operations, both domestic and institutional.
- J. No well or cistern shall be left open or insecurely covered within City of Herculaneum. These must be closed in accordance with Missouri Department of Natural Resources regulations
- K. It shall be unlawful for the owner or occupant of any residence, institution, professional, commercial, or business establishment, or for contractors or builders engaged in construction or remodeling projects, to deposit or accumulate refuse in or upon any lot, parcel of land, public or private drive, alley, street, creek, dry creek or any part of the City's stormwater system, natural or manmade or other place in the City, except in an approved containment device or except as allowed under a National Pollutant Discharge Elimination System (NPDES) permit, the Department of Natural Resources (DNR), or this Code. No person shall permit or allow any refuse in his or her yard or upon the premises occupied by him or her or to throw or deposit any refuse upon the premises of any other person or upon any of the streets, alleys or other public places in the City.

Section 460.060. Land Disturbance Permit

A. Permit Required.

No person may engage in any land disturbance activity, including persons engaged in land disturbance activity related to utility installation or maintenance, without first obtaining a land disturbance permit from the City, except as provided in this Section.

B. Other Construction Permits Delayed.

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When a person is developing a site and a permit is required in accordance with this Section, no other construction permits shall be issued to make improvements on that site until the person has secured a land disturbance permit for the same site, unless such permits are unrelated to land disturbance activity. This includes permits issued by any other city, state or federal agency.

C. Exemptions.

A permit is not required under this Section for the following:

1. any land disturbance activity that disturbs or will, in the course of the subject development, disturb less than 50 square feet of surface area. This does not preclude preventive measures that need to be taken to prevent an increase in site erosion, water runoff, siltation or other drainage to neighboring properties. Where it is determined that erosion measures are not being taken, the Building Official may revoke application of this exemption to subject site.
2. all land farming operations, including plowing or tilling of land for the purpose of crop production or the harvesting of agricultural crops on land except where such activity may adversely affect aquatic life or water quality. If an owner or any entity in which the owner has a controlling interest has cleared or disturbed for an exempt purpose, that owner may not develop the site for a two-year period following the clearing or land disturbance activity.
3. any activity that is immediately necessary for the protection of life, property, public health or safety, or natural resources.
4. On-going sludge drying and storage activities by water and sewer authorities at the treatment plant site under Missouri Department of Natural Resources (DNR) operation permit.

The Building Official encourages the use of best management practices for sediment and erosion control techniques on all disturbed sites including above exceptions.

D. Application.

To obtain a permit for land disturbance activity, the owner of the land, the holder of an access easement, an owner under contract, or the site owner's authorized representative must submit a complete application, in writing, upon forms furnished by the City. The application shall be in accordance with the permit submission requirements delineated in Section 460.070.

A land disturbance permit must be issued in the name of the current property owner.

E. Fee.

Before issuance of a permit, the applicant shall pay a fee to cover the cost of administration, plan review, inspection services and any other costs associated with the

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permit process. The fee shall be as set by the Board of Aldermen and shall be paid to the City with the application.

F. Review and Approval.

The Building Official will review each application to determine its conformance with the provisions of this Section and the erosion and sediment control/stormwater design criteria authorized hereby. The Building Official shall, in writing:

1. approve the permit application and the Storm Water Pollution Prevention Plan (SWPPP) required by Section 460.090, if the application complies with all the requirements of this Section and the Building Official determines that best management practices will be employed to control erosion and sedimentation to the maximum extent practicable; or
2. approve the permit application and the Storm Water Pollution Prevention Plan (SWPPP) required by Section 460.090 subject to conditions, as herein authorized, as may be reasonably necessary to secure the objectives of this Section, prevent the creation of a nuisance or an unreasonable hazard to persons or to public or private property, and issue the permit subject to these conditions; or
3. disapprove the permit application and the Storm Water Pollution Prevention Plan (SWPPP) required by Section 460.090, indicating, in writing, the reason(s) therefore.

Approval of permit application and Storm Water Pollution Prevention Plan (SWPPP) does not alleviate the owner of responsibilities delineated in this chapter.

G. Conditions of Approval.

In approving the issuance of any permit, the Building Official may impose any conditions as may be reasonably necessary to secure the objectives of this Chapter and/or prevent the creation of a nuisance or unreasonable hazard to persons or to public or private property. All permits shall include these conditions:

1. the granting (or securing from others) and the recording in the Recorder of Deeds Office of easements for drainage facilities on the property of others and for the maintenance of slopes or erosion control facilities;
2. adequate control of dust by watering, or other control methods acceptable to the Building Official;
3. improvements of any existing grading, ground surface or drainage condition on the site (not to exceed the area as proposed for work or development in the application) to meet the standards required under this Section for land disturbance, drainage and erosion control;
4. installation of sediment traps and basins if determined by the Building Official;

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5. in the proximity of a school, playground or other areas where children may congregate without adult supervision, the installation of additional safety related devices if determined by the Building Official.

H. Modification of Plan.

1. Modifications of the approved plan must be submitted to the City, and shall be reprocessed in the same manner as the original Storm Water Pollution Prevention Plan (SWPPP), where:
 - a. field inspection or evaluation has revealed the inadequacy of the approved plan to accomplish its erosion and sediment control objectives; or
 - b. 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.
2. In emergency situations, the Building Official may require the installation of interim erosion and sediment control/stormwater control measures to protect stream channels, other properties, or the general public from damage that will remain in effect until modifications or revisions to the plan are approved and implemented.
3. Field modifications of a minor nature that are consistent with the criteria of this Section may be made without authorization, provided the Building Official is notified of such changes within 48 hours of implementation.

I. Assignment or Transfer.

1. If the permittee sells the property before the termination of the permit, a new permit will be issued for the new owner of the site, upon application therefore, provided the original permittee is not in violation of any City code, ordinance or regulation.
2. If the permittee sells any portion of the property before the termination of the permit, the permittee will remain responsible for that portion of the property until the new owner of the property obtains a permit, in compliance with City requirements.
3. A new owner disturbing property covered by an approved plan for which a completion certificate has not been issued, shall obtain a land disturbance permit before engaging in further land disturbance activities, as required by this Section.

J. Termination or Transfer Upon Completion.

The permit shall be valid from the time that it is issued until the site is permanently stabilized and erosion and sediment control measures are in effect or the property is transferred to a new permittee as provided hereinabove. The site will be considered stabilized when either perennial vegetation, pavement, buildings, or structures, using permanent materials, cover all areas that have been disturbed and all temporary erosion

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and sediment control measures have been cleaned out and removed. To terminate the permit, the permittee shall submit a written request to the City provided a new permit has been issued in the name of the new permittee. The City will perform a final inspection of the site to evaluate the completion of the measures specified in the permit.

Section 460.070. Land Disturbance Permit – Submission Requirements

- A. The following information shall be submitted to the Building Official as a part of the application for a land disturbance permit, as required by Section 460.060:
1. a site map in compliance with Section 460.080;
 2. a Storm Water Pollution Prevention Plan (SWPPP) in compliance with Section 460.090;
 3. project narrative per section 460.100.
 4. a work schedule in compliance with Section 460.110;
 5. the permit fee as set forth in Section 460.060 E;
 6. a performance guarantee if required by Section 460.140;
 7. a soils engineering report in compliance with Section 460.120, will be required before a grading permit will be issued; and
 8. an engineering geology report in compliance with Section 460.130, when required by the City.
- B. Plans submitted in accordance with items 460.070 A7 and A8 must be prepared and certified by a licensed professional or by someone who has successfully completed certification requirements from a nationally recognized organization that specializes in soil and erosion control, with such certification to be based upon preparation, knowledge, and experience, passage of an examination showing proficiency in the principles and practices of erosion and sediment control, as well as a peer reviewed application stating the candidate's education and years of experience working in the industry. The certification must require continuing education credits to maintain the certification and the professional must certify as part of his report that he has maintained such credits to date. The program must be approved by the City.
- C. The City may require any additional information or data deemed appropriate and/or may impose conditions thereto as the Building Official may deem necessary to ensure compliance with the provisions of this Section to preserve public health and safety.
- D. The Building Official may waive the requirements for site maps, plans, reports or drawings, if the Building Official finds that the information on the application and

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supporting information is sufficient to show that the proposed work will conform to the requirements of this Section.

- E. The applicant is bound by information submitted and by this Section.
- F. Land disturbance activity may not take place in the City until a permit, as described in Section 460.060, has been issued and, if the Building Official has determined that a performance guarantee is necessary, an acceptable agreement has been obtained.

Section 460.080. Site Map

Subject to Section 460.070A, as a part of each application, the applicant shall submit a site map that contains all of the information specified in the Erosion and Sediment Control/ Stormwater Management Manual required by Section 460.050 C of this Section:

- A. an attached vicinity map showing the location of the site in relation to the surrounding area's watercourses and water bodies within 100 feet, other geographic and natural features, and street and other structures;
- B. existing and proposed topography of the entire site with contour lines drawn with an interval in accordance with the following table:

Ground Slope	Contour Interval
Flat: 0-30%	2 feet
Steep: 30%+	5 feet

For minor subdivisions (2-4 lots), USGS data may be used for existing topography for purposes of the land disturbance permit.

- C. drainage areas within 100 feet;
- D. site's property lines shown in true location with respect to the plan's topographic information;
- E. location and graphic representation of all existing and proposed drainage facilities (natural and man-made) and to which watershed(s) the drainage occurs.
- F. location, graphic representation and legend with a general description of each soil type as described in the "Soil Summary of Jefferson County, Missouri, United States Department of Agriculture, Natural Resources Conservation Service" using Table 12, "Building Site Development" and Table 13, "Sanitary Facilities".
- G. location of buffer strips delineating both Stream Side Zone and the Outer Zone as defined in Section 460.050.C.

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- H. delineation of any above grade natural or artificial water storage areas, detention areas and drainage ditches on the site, and a copy of the 404 permit or a statement of no permit required.
- I. delineation of any drainage, sanitary, utility, or other easement(s) on or near the site;
- J. delineation of the one hundred (100) year floodplain and floodway on the site; or a statement that there are no such floodplains located on the property;
- K. location and graphic representation of proposed excavations and fills, of on-site storage of soil and other earthen material, and prior to hauling, the location of off premises disposal site;
- L. location and general description of vegetation cover to be left undisturbed;
- M. location of existing surface runoff and erosion and sediment control measures;
- N. location of any water wells and on-site septic systems;
- O. location and size of any sink holes;
- P. quantity of soil in cubic yards to be disposed off site;
- Q. proposed sequence of excavation, filling and soil or earthen material storage and disposal; and
- R. the signature of a licensed professional.

Section 460.090. Storm Water Pollution Prevention Plan (SWPPP)

Subject to Section 460.070A, as a part of each application, an applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) that is drawn to an appropriate engineering scale and that includes sufficient information to evaluate the environmental characteristics of the affected area, to assess the potential impacts of the proposed land disturbance on water resources and identify proposed methods to minimize on-site soil erosion and prevent off-site sedimentation to the maximum extent practicable, including disturbance of topsoil and limitation on disturbance and areas preserved as buffer strips designated to protect drainage courses. The Storm Water Pollution Prevention Plan (SWPPP) shall contain all the information specified herein and meet all the erosion and sediment control design criteria established pursuant to Section 460.050 of this Section.

Section 460.100. Project Narrative

The following items shall be submitted in support of an application for a Land Disturbance permit:

- A. An identification of the areas on the site to be protected from disturbance and the methods of the protection.
- B. Applicable state and federal permits applied for or obtained.

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- C. A description of, and the specification for, the measures to be undertaken to retain sediment on the site, including, but not limited to, designs and specification for berms and sediment detention facilities, and a schedule for maintenance and upkeep.
- D. A description of, and specifications for, the measures undertaken to reduce surface runoff and control erosion, including, but not limited to types and methods of applying mulches, designs and specifications for diverters, dikes and drains, and a schedule for their maintenance and upkeep.
- E. A description of the temporary and permanent vegetative measures to be used, including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, types and rates of lime and fertilizer application, kind and quantity of mulching, the type, location and extent of pre-existing undisturbed vegetation types and vegetation to remain, including buffer strips, and a schedule for maintenance and upkeep.
- F. Alternative methods of stabilizing the site when either seeding is not performed in accordance with the work schedule, or is performed and is not effective.
- G. The location and description, including design details, of temporary and permanent erosion, surface runoff and sediment control measures and structures, or show in a typical format with proposed locations on the plan.
- H. The maximum surface runoff from the site, calculated using the best available information and sound engineering principles.
- I. The sediment yield, calculated using the best available information and sound engineering principles.
- J. The estimated duration of the permit, defined as the time for the inception of the land disturbance until concluded and the site stabilized.
- K. A statement noting that the contractor, developer, and owner shall request the City to inspect and approve work completed in accordance with the approved plan, and in accordance with this Section. The contractor, developer, or owner shall be required to obtain written approval by the City at the stages of development as outlined in Section 460.150D.
- L. The storm drainage system including quantities of flow and site conditions around all points of surface water discharge from the site.
- M. The details of temporary and permanent stabilization measures, including a construction note on the plan stating: "Following initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within seven (7) calendar days on all perimeter dikes, swales, ditches, perimeter slopes, and all slopes greater than 3 horizontal to 1 vertical (3:1); embankments of ponds, basins, and traps; and within fourteen (14) days on all other disturbed or graded areas." This requirement does not apply to those areas that are shown on the plan and are currently being used for material storage or for those areas on which actual construction activities are currently being performed.

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Section 460.110. Work Schedule

Subject to Section 460.070A, the applicant shall submit a chronological construction schedule and approximate time frames for each activity specified herein and in the Erosion and Sediment Control/Stormwater Management Manual required by Section 460.050 of this Section:

- A. Clearing and grubbing for those areas necessary for installation of perimeter erosion control devices;
- B. Construction of perimeter erosion and sediment control devices;
- C. Remaining interior site clearing and grubbing;
- D. Installation of permanent and temporary stabilization measures;
- E. Grading for the site;
- F. Utility installation and statement of whether storm drains will be used or blocked during construction;
- G. Building, parking lot, and site construction if part of the land disturbance activities;
- H. Final grading, landscaping or stabilization;
- I. Implementation and maintenance of final erosion control structures; and
- J. Removal of temporary erosion control devices;

Section 460.120. Soils Engineering Report

When the City determines that because of soil types and the need to protect against erosion or other hazards, the applicant shall submit a soils engineering report, subject to Section 460.070A. The report shall be based on adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and approved by the City shall be incorporated in the Storm Water Pollution Prevention Plan (SWPPP). The report shall include:

- A. Data regarding the nature, distribution, strength, and erodibility of existing soils.
- B. If applicable, data regarding the nature, distribution, strength, and erodibility of soil to be placed on the site.
- C. Conclusions and recommendations for grading procedures.
- D. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.
- E. Design criteria for corrective measures when necessary.
- F. Opinions and recommendations covering the stability of the site.

Section 460.130. Engineering Geology Report

When the City determines that, subject to Section 460.070A, additional information is required on properties to protect against landslides, faults, or other geological hazards, the applicant shall submit an engineering geology report. The report shall be based on adequate and necessary test borings and give an adequate description of the geology of the site, with conclusions and recommendations, regarding the effect of geologic conditions on the proposed development and giving opinions and recommendations covering the adequacy of site to be developed by the proposed land disturbance activity. Recommendations included in the report and approved by the City shall be incorporated in the Storm Water Pollution Prevention Plan (SWPPP). The report shall be based on subsurface exploration and testing that represents conditions of the entire parcel. The report shall include:

- A. Maps depicting regional geologic settings and site-specific geologic formations and structures.
- B. Review of generally accepted published geologic reports pertaining to the area.
- C. An adequate description of the geology of the site, including description of bedrock lithology, structure, and physical characteristics (strength, jointing, weathering, hardness, special physical or chemical features), and discussion of how the geologic structure affects the site.
- D. Identification of active and dormant landslides based on both site analysis and published geologic maps. Geologic cross-sections where appropriate to convey information on geologic relationships.
- E. Discussion of geomorphology and relevant hillslope and stream processes. Identification and evaluation of any faults on or adjacent to the site, including their degree of activity and their possible engineering significance.
- F. Description and evaluation of offsite geologic hazards that may affect the graded site.
- G. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development.
- H. These studies shall be performed for the entire parcel, and shall not be limited only to those portions to be graded.
- I. Reports should be signed by a Missouri licensed professional engineer.

Section 460.140. Performance Guarantee

Based on an estimate from the city engineer, prior to the issuance of a land disturbance permit, the applicant must submit a performance guarantee agreement, secured by a letter of credit that meets the requirements specified in this Section and in a satisfactory form and approved by the City Council. That instrument shall be conditioned upon the faithful performance of the terms of the permit, and the soil erosion and sediment control/stormwater measures specified in the permit and approved plan, within the time authorized by the permit or within any extension granted.

The amount of the performance guarantee shall be sufficient to cover erosion/sedimentation control (installation and maintenance) and soil stabilization of the site in the event of default by the permittee. The Building Official may grant a partial or complete waiver of the performance guarantee, upon application, where the Building Official finds minimal impairment of existing surface drainage, minimal erosion hazard, and minimal sedimentation hazard upon any adjacent land or watercourse, and no hazard to human life or property.

A performance guarantee shall remain in full force and effect until the applicable permit is terminated, pursuant to Section 460.060 J of this Section and all other permittee's acts covered by the performance guarantee have been determined to be complete in accordance with the applicable City Code provisions. If the permit holder does not faithfully perform the soil erosion and sediment control measures specified in the permit, the financial institution securing the letter of credit will cause the measures to be performed or may pay the City on demand the amounts needed to perform and maintain the measures. A release of the performance guarantee shall be transmitted to the Letter of Credit depositor upon termination of the applicable permit in accordance with Section 460.060 J of this Section. Failure to renew the performance guarantee thirty (30) days prior to its expiration shall be deemed a default.

Section 460.150. Permittee's Responsibility

A. General.

Land disturbance activity may not proceed until a land disturbance permit has been issued by the City. All work must be performed in accordance with a sequence shown on the approved plan and/or work schedule or a revised sequence that shall be set forth in the Storm Water Pollution Prevention Plan (SWPPP) by the applicant.

A person must not initiate land disturbance activities sufficiently close to the property line so as to endanger any adjoining property, including a public street, sidewalk, or alley. The adjoining property should be supported and protected from damage that may result from land disturbance activities including settling, cracking or vegetative damage. If, in the opinion of the Building Official, the land disturbance activity creates a hazard to life or property, which is not adequately safeguarded, the permittee must construct walls, fences, guardrails, or other structures to safeguard the adjoining private property or public street, sidewalk, alley, or other public property and persons, as the Building Official may require.

B. Execute the Approved Plan.

The issuance of a permit shall constitute an authorization to do the work described in the permit, or shown on the approved plan. A copy of the approved plan and the permit must be available on the site for inspection or a sign must be placed on site with contact notice information. Field markings showing limits of disturbance must be on site during all installation of erosion and sediment/stormwater control measures, construction, or other land disturbance activities.

C. Maintain and Repair Stormwater Facilities during Development.

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1. The permittee, or the owner of any property on which work has been done pursuant to a permit or any other person or agent in control of that property, must inspect, maintain in good and effective condition, and promptly repair or restore all grade surfaces, walls, drains, dams and structures, plantings, vegetation, erosion and sediment control measures, and other protective devices. The permittee or owner, and their agent, contractor, and employees, shall maintain and repair all graded surfaces and erosion control facilities, drainage structures or means and other protective devices, plantings, and ground cover installed while construction is active. Inspections shall be performed and documented in accordance with regulations of the City. Repair or restoration, and maintenance, must be in accordance with the approved plan and permit as required by this Section.
 2. Any person who performs utility related work under a permit is responsible for the repair or maintenance of all erosion and sediment control measures affected by the utility construction. Repair or maintenance must be in accordance with Section 460.140 C 1 above.
- D. Maintain and Repair Stormwater Facilities after Development.
1. Easement. Permanent easements for maintenance of stormwater management facilities shall be established on the final subdivision plat for any project that has said facilities as part of the improvements. The owner(s) of stormwater management facilities are hereby obligated to maintain the facilities in good repair and working order.
 2. Covenants. When stormwater improvements are part of a subdivision development wherein a Property Owners Association will own the improvements, the Covenants or Restrictions for said subdivision shall include a statement obligating each property owner to maintain the stormwater facilities. The covenants or Restrictions shall authorize the Association to place a lien on property the owners of which fail to pay such assessments. The language of the Covenants or Restrictions shall obligate the Association to perform a minimum of annual maintenance on the stormwater facilities and to keep records of such maintenance for ten years. Upon request, records must be produced for inspection by the City. Maintenance and repair may include but is not limited to removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, removal of grass cuttings and vegetation, the necessary replacement of landscape vegetation, and repair to any defects in stormwater structures.
 3. Inspection of Stormwater Facilities. The City may establish inspection programs to review maintenance and repair records; to sample discharges, surface water, ground water, and material or water in drainage control facilities; and to evaluate the condition of drainage control facilities and other stormwater treatment practices. The property owner(s) shall allow representatives of City of Herculaneum to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter the property when

the City has a reasonable basis to believe that a violation of this Order is occurring or has occurred.

4. **Failure to Maintain Practices.** If the responsible party fails or refuses to meet the requirements of this Order, said party shall be subject to the enforcement provisions of Section 100.004 "General Penalty".

E. Inspections.

1. Each site that has an approved plan shall be inspected as necessary to ensure that erosion and sediment/stormwater control measures are installed and effectively maintained in compliance with the approved plan and permit. As a minimum, it is anticipated that the Building Official will inspect the site at the following stages:
 - a. upon completion of installation of perimeter erosion and sediment controls;
 - b. during the construction of sediment basins or stormwater management structures, at the inspection points required by the permit;
 - c. prior to the removal or modification of any erosion and sediment control measure or practice; and
 - d. upon completion of final grading, including establishment of ground covers and planting, installation of all vegetative measures, and all other work in accordance with the approved plan.
2. Permittee shall notify the Building Official when work pursuant to the permit reaches the milestones set forth in Section 430.110 D. Requests for inspection shall be made at least forty-eight (48) hours in advance (exclusive of Saturdays, Sundays, and holidays) of the time the inspection is desired.

F. Remove Fugitive Materials.

If soil, earth, sand, gravel, rock, stone, or other material is caused to be deposited upon or to roll, flow, or wash upon any public or private property and/or public road in violation of Section 460.010 of this Section, the person responsible shall be notified and must cause the material to be removed from that property within forty-eight (48) hours or other time period as determined by the City. In the event of an immediate danger to the public health or safety, notice must be given by the most expeditious means, and the material must be removed immediately.

G. Non-Interference with City's Corrective Actions.

A person must not interfere with an authorized representative or agent of any surety, issuing organization or entity nor shall a person obstruct the ingress to or egress from a site or premises. This non-interference extends to the City engaged in completing the required work to be performed under the permit or in complying with the terms or conditions of the approved plan or the permit.

Section 460.160. Inspections and Enforcement

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A. Inspections and Notice of Failure.

The City may inspect the work and upon prior notice to the permittee (except in cases of emergency in which the injury to persons or property is imminent) notify the permittee or the representative of the permittee, if there is a failure to comply with the requirements of this Section. Following notice of a potential violation, the permittee shall be given the opportunity to accompany any such inspector and to participate in the inspection. The notice issued for violation must, at a minimum, state the nature of the violation, any practice or approved plan deficiencies, required corrective action, and compliance time. After a notice to comply is given, the permittee or the permittee's contractor(s) shall be required to make the corrections within the time period determined by the City. If an imminent hazard exists, the City shall require that the corrective work begin immediately. Notice of minor deficiencies may be given to responsible personnel on-site.

B. Third Party Inspections, If Necessary.

If as-built plans are not being furnished for the job, then, in addition to its own inspections, the City may require that any portion of the construction of basins or structures be inspected and certified by a licensed professional. The permittee may be required to secure the services of a licensed professional to inspect the construction of the facilities and provide the City with a fully documented certification that all construction is done in accordance with the provisions of the approved plan, applicable rules, regulations and criteria. If a certification is provided to the City, inspections anticipated under Section 460.150 E 1 b for the basin or structure may be waived. In these cases, the City must be notified at the required inspection points and may make spot inspections.

C. Suspension.

1. Any permit issued under this Section may be suspended by the City, after notice, if the City determines that:
 - a. the site is not in substantial compliance with the approved plan or any permit condition;
 - b. permittee fails to submit reports timely, when requested to do so by the City;
 - c. a violation of any provision of this Section or any other applicable law, order, rule, or regulation relating to the work exists;
 - d. a condition exists or any act is being done that constitutes or will create a nuisance, or hazard or endangers or will endanger human life or the property of others; or
 - e. the approved plan is failing to achieve required erosion and sediment control/stormwater management objectives due to site characteristics or conditions and the permittee has not submitted or followed an approved modified plan.

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2. The City shall reinstate a suspended permit upon the permittee's correction of the cause of the suspension.

D. Stop Work Orders.

1. In addition to the other authority granted by this Section, the City may post a site with a stop work order directing that all or any portion of the land disturbance activity cease immediately, provided that:
 - a. the City determines that the land disturbance activity violates a condition or requirement of the permit or approved plan or any provisions of this Section or regulations;
 - b. written warning notice is furnished to the permittee or the permittee's representative that lists deficiencies and the time within which the corrections must be made; and
 - c. the permittee fails to comply with the warning notice within the specified time.
2. A person must not continue or permit the continuance of work in an area covered by a stop work order, except work required to correct deficiencies with respect to an erosion or sediment/stormwater control measure.
3. For the purposes of this Section, a stop work order is validly posted by posting a copy of the stop work order on the site of the land disturbance activity in reasonable proximity to a location where the land disturbance activity is taking place.
4. A stop work order may be issued without a warning notice where the City determines that:
 - a. land disturbance is taking place that requires a permit under this Section and one has not been approved;
 - b. required erosion and sediment/stormwater control measures are not installed, inspected, and approved before the land disturbance;
 - c. the limits of disturbance are being violated;
 - d. an illicit discharge is or has occurred in accordance with Section 460.055; or
 - e. inspection reveals the existence of any condition or the doing of any act that:
 - i. is or will create a nuisance or hazard; or
 - ii. endangers human life or the property of others.
5. Except as otherwise provided, the City must provide written notice to the permittee or a representative of the permittee when a stop work order is issued. A copy of the order, in the case of work for which there is a permit, shall be mailed by first class mail, postage pre-paid, to the address listed by the permittee on the

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permit. In the case of work for which there is no permit, a copy of the order shall be mailed to the person listed as owner of the property by Jefferson County Assessors Office. That notice must specify the extent to which work is stopped and the conditions under which work may resume. The permittee is responsible for the actions of agents of the permittee and must notify those agents when a stop-work order is issued that will affect an area within which the agents are to work. In this regard, "agent" is defined as any person who acts at the instruction, with the permission, or to the benefit of the permittee. A hearing shall be held before the Building Official within forty-eight (48) hours after the issuance of the stop work order unless resolved prior to the time of the hearing.

6. A person must not continue or permit the continuance of work in an area covered by a stop-work order, except work required to correct deficiencies with respect to an erosion or sediment/stormwater control measure.

E. City's Right to Correct and Recover Costs.

1. Within ten (10) days after posting the order, the City, (if the deficiencies specified in the stop work order have not been satisfied,) may issue a notice of intent to the permittee, owner, or land user of the City's intent to perform work necessary to comply with this Section pursuant to the guarantee agreement. The City may go on the land and commence work after fourteen (14) days from issuing the notice of intent. The costs incurred by the City to perform this work shall be paid out of the performance guarantee required by Section 460.070.
2. Whenever the City finds that a default has occurred in the performance of any term or condition of the permit, approved plan, performance guaranty or a violation of Section 460.010 C has occurred, written notice of default must be given to the permittee and to the surety or issuing organization or entity. The notice must state the work to be done, the estimated cost, and the specified period of time deemed by the City to be reasonably necessary for completion of the work.
3. In the event of any default in the performance of any term or condition of the permit or performance guarantee, the City, the surety, the issuing organization or entity, or any person employed or engaged on its behalf has a right to go upon the site to complete the required work necessary to control erosion and sedimentation or to protect properties, watercourses, and persons. In the event the City undertakes this work with the funds from a forfeited performance guaranty, the funds must be used to pay the cost of contracting, including engineering and administration, for necessary restoration of the site to control erosion and sediment/stormwater within the requirements of the approved plan, permit, performance guarantee, or this Section.
4. In the event any soil, earth, sand, gravel, rock, stone, or other material that is caused to be deposited upon or to roll, flow, or wash upon any public or private property in violation hereof and is not removed after notice, as provided in Section 460.160 A, the City may cause the removal. The failure to remove shall

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be treated as a default on the performance guarantee and remedy the default as authorized by Section 460.150 D.4.

5. Revocation of Permit
 - a. The Building Official shall revoke the permit if the permittee fails or refuses to cease work pursuant to a stop work order issued in conformity with this Section.
 - b. The City shall immediately revoke the permit upon failure of any permittee to maintain the performance guarantee.

Section 460.170. Other Matters

A. Other Laws.

Neither this Section nor any decision made with respect hereto exempts the applicant or any other person from other requirements of the City Code, or from state and federal laws, or from procuring other required permits, nor do they limit the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the applicant or any person arising from the activity regulated by this Section.

This Section shall not be construed to be in conflict with any state or federal law intended to control erosion, sedimentation, and stormwater. In those instances where state or federal law imposes a more strict duty or requirement with respect to a matter covered by this Section, the more strict duty or requirement shall control.

B. Liability Insurance.

1. Contractors or subcontractors performing land disturbance activities shall be insured against liability for claims for damages for personal injury and property damage and certificates of insurance shall be made available to the City upon request. Neither issuance of a permit, nor compliance with these provisions or any condition imposed by the City, relieves any person from any responsibility for damage to persons or property otherwise imposed by law, nor imposes any liability upon the City for damages to persons or property.
2. The permittee is responsible for safely and legally completing the project. Neither the issuance of a permit under the provisions of this Section, nor the compliance with the provisions hereto or with any condition imposed by the City, shall relieve any person from responsibility for damage to persons or property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the City for damages to persons or property.

Section 460.180. Reserved