

AN ORDINANCE AMENDING CHAPTER 22.5 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI, PUBLIC IMPROVEMENTS DESIGN AND CONSTRUCTION, BY REPEALING THE EXISTING DESIGN AND CONSTRUCTION MANUAL AND ENACTING A NEW DESIGN AND CONSTRUCTION MANUAL CONSISTING OF GENERAL PROVISIONS, DESIGN CRITERIA, STANDARD SPECIFICATIONS, AND STANDARD DRAWINGS .

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 22.5 of the Code of Ordinances of the City of Lee's Summit, Missouri, Public Improvements Design and Construction is hereby amended by repealing Section 22.5-1 in its entirety and enacting a new Section 22.5-1 to adopt a new Design and Construction Manual which shall read as follows:

Sec. 22.5-1. Design and Construction Manual--Adoption.

The Design and Construction Manual as published by the City of Lee's Summit and amendments thereto approved pursuant to the procedure therein is hereby adopted to regulate the construction of public infrastructure improvements within the City, including the regulation of blasting, excavation, trenching and backfilling and the design and construction of water lines, sanitary sewers, storm sewers and streets. Each and all the regulations, provisions, standard details, figures, tables, penalties, conditions and terms of the manual are hereby adopted by reference and made a part of this chapter, as if fully set out in this chapter, with the insertions, deletions and charges, if any, made in accordance with section 22.5-2. Three copies of the Design and Construction Manual and any amendments thereto are on file in the office of the City Clerk.

SECTION 2. That Chapter 22.5 of the Code of Ordinances of the City of Lee's Summit, Missouri, Public Improvements Design and Construction, Section 22.5-2, is hereby amended to provide an administrative procedure for revision of standard specifications and standard drawings pertaining to materials and installation, which shall read as follows:

Sec. 22.5-2. Same—Amendments to Article III, Standard Specifications.

- A. The City Administrator can authorize amendments to the Design and Construction Manual to allow for the use of alternate materials, methods, and details other than those specified in the Manual, as adopted, by adhering to the following procedure:
1. The City Administrator shall notify the Mayor and City Council of the proposed amendments fourteen (14) days prior to the proposed effective date of the amendments.
 2. The Mayor and City Council may request a review of the proposed amendments prior to the proposed effective date of the amendments.
 3. If no such review is requested by the Mayor or any member of the City Council, such proposed amendments shall go into full force and effect from and after the proposed effective date.

SECTION 3. That Chapter 22.5 of the Code of Ordinances of the City of Lee's Summit, Missouri, Public Improvements Design and Construction, Section 22.5-3, is hereby amended to incorporate enforcement provisions pertaining to erosion control from repealed sections of the

repealed Design and Construction Manual, which shall read as follows:

Sec. 22.5-3. Enforcement of chapter--City Engineer.

A. General Provisions.

(1) The City Engineer shall have the power and duty to enforce the provisions of the Manual and all related ordinances of the City and shall have the power to issue a citation and summons to Municipal Court for any violations thereof.

(2) Contractors/developers who fail to comply with, or violate these standards may be required to stop work, be refused final acceptance, building permits, and future extensions within the development area until corrections are made to the satisfaction of the City Engineer.

(3) Violations of this Manual are further subject to punishment in Municipal Court in accordance with section 1-13 of the Code of Ordinances.

B. Enforcement of Erosion and Sediment Control

1. The Department of Public Works and the Department of Codes Administration shall handle erosion control enforcement through the normal routine activities that include inspecting the site, communicating with the contractor, developer, or owner, and issuing written warnings to the contractor, developer, or owner to resolve issues of non-compliance. If erosion control measures are determined to be deficient, Director of the Department of Public Works or the Director of Codes Administration (hereafter "Director") or his designee may immediately discontinue all inspections for the site.

2. In addition to immediately discontinuing all inspections for the site, upon the Director's or his designee's determination that erosion control measures are deficient, but not hazardous, the Director shall notify the contractor, developer, or owner to take remedial action to correct the deficiencies within two regular business days. If the deficiencies have not been corrected within two regular business days, the Director or his designee may:

- a. Issue a Stop Work Order for the site;
- b. Suspend the Land Disturbance Permit(s);
- c. Remedy the deficiencies and bill the contractor, developer, or owner for the actual and administrative costs. If the contractor, developer, or owner fails to reimburse the City for correcting the deficiencies, the Director or his designee may withhold certificate(s) of occupancy, including temporary certificate(s) of occupancy, for all contractor, developer, or owner's properties; and/or
- d. Refer the case to the Law Department for prosecution.

3. If erosion attributable to deficient erosion control measures poses an immediate danger to life or property, or substantial flood or fire hazards, the Director or his designee shall cause the City to immediately abate the hazardous condition. The contractor, developer, or owner shall pay all actual and administrative costs incurred by the City in correcting the hazardous condition within ten days. If the contractor, developer, or owner fails to pay the City for

correcting the hazardous condition, the Director may take any or all of the actions listed above.

4. Conviction of any violation enumerated in this section shall be punished by a fine as set forth in the following minimum punishment schedule, but not more than \$500, or by imprisonment of not more than 90 days, or by both such fine and imprisonment:

a. First conviction: a fine of not less than \$100 and not more than \$500.00; imprisonment for not more than 90 may also be adjudged.

b. Second conviction: a fine of not less than \$250.00 and not more than \$500.00; imprisonment for not more than 90 days may also be adjudged.

c. Third conviction: a fine of \$500; imprisonment for not more than 90 days may also be adjudged;

d. Fourth and subsequent convictions: a fine of \$500 and imprisonment for not less than ten days and not more than 90 days.

For purposes of this section, only convictions within the prior three years before the date of the offense shall be considered.

C. Enforcement of Tracking Mud, Debris, etc.

1. Any contractor, developer, or owner and/or his/her employees and/or subcontractors who deposit, spill, drop or track any dirt, earth, mud, rock, sand, shale, debris, rubbish or other material on any right of way shall immediately remove the material from the right of way. If the contractor, developer, or owner and/or his/her employees and/or subcontractors fail to immediately remove the dirt, earth, mud, rock, sand, shale, debris, rubbish or other material from the right of way, the Director or his designee may take any or all of the following actions: Issue a Stop Work Order; Discontinue all inspections for any site contributing to the violation; Withhold certificate(s) of occupancy, including temporary certificates of occupancy(s), for any site contributing to the violation.

2. Additionally, failure to immediately remove said material from the right of way is a violation of Section 26-4 of the Lee's Summit Code of Ordinances and is punishable under Section 1-13 of the Lee's Summit Code of Ordinances. At the Director's discretion, a report of a violation of this Section shall be forwarded to the Law Department for prosecution. Each day's violation shall be considered a separate offense.

SECTION 4. That Chapter 22.5 of the Code of Ordinances of the City of Lee's Summit, Missouri, Public Improvements Design and Construction, is hereby amended by repealing Section 22.5-4 and enacting a new Section 22.5-4 pertaining to transition provisions for the new Design and Construction Manual, which shall read as follows:

Sec. 22.5-4. Completion of development projects.

All developments with respect to which an application for a preliminary development plan (PDP) or preliminary plat was filed prior to the effective date of this Chapter may be completed in accordance with the terms of the Design and Construction Manual which was in effect prior to the effective date of this Chapter, so long as construction begins within 12 months of the approval of the application. If such a development is approved for completion in stages, this subsection shall apply only to the phase for which engineering plan approval is granted.

SECTION 5: Severability Clause. That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 6: Savings Clause. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby, nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 7: Penalty Clause. Any person found guilty of violating this ordinance shall be penalized accordance with Section 1-13.A of the Code of Ordinances of the City of Lee's Summit, Missouri.

SECTION 8: That it is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.

SECTION 9: That this Ordinance shall be in full force and effect sixty (60) days from and after the date of its passage and approval.

PASSED by the City Council of Lee's Summit, Missouri, this 16th day of September, 2004.


Mayor Karen R. Messerli

ATTEST:


City Clerk Denise R. Chisum


APPROVED by the Mayor of said City this 16th day of September, 2004.


Mayor Karen R. Messerli

BILL NO. 04-142

ORDINANCE NO. 5813

ATTEST:



City Clerk *Denise R. Chisum*

APPROVED AS TO FORM:



City Attorney *Robert H. Handley*