

Chapter 18.130
PERMITS AND CERTIFICATES OF OCCUPANCY

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18.130.010 Land disturbance permits -- when required

A land disturbance permit shall be obtained from the Director of Planning and Development Services prior to commencement of any of the following:

- A. Any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials. Exemptions permitted in 18.130.012(A)(1) are not applicable to land disturbance activities in the Special Flood Hazard Area pursuant to Chapter 18.360 of this Code.

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- B. Utility construction; except for storm sewer construction which requires a Site Development Permit or Public Improvement Permit.
(History: Ord. ZRR-2564 §2, 2005; ZRR-2450 §15, 2003; ZRR-2420 §6, 2003; ZRR-1725; ZRR-1637; ZRR-941; ZRR-889 §18.54)

18.130.012 Land disturbance permits -- exemptions

- A. A Land disturbance permit is not required for the following:
1. Land disturbance activities that cumulatively disturb less than one acre, and are not part of a larger common plan of development or sale which disturbs a cumulative area of 1 acre or more, and involves fill of less than 3 feet in height, and containing less than 50 cubic yards, and does not create a slope in excess of 3 horizontal to 1 vertical, and does not obstruct a drainageway.
 2. Work to correct or remedy emergencies, including situations that pose an immediate danger to life or property or substantial flood or fire hazards.
 3. Agricultural uses.
 4. Land disturbance activities specifically authorized by a building permit which includes an erosion and sediment control plan covering the entire area of disturbance. This exemption is not intended to exempt the building permit from erosion and sediment control requirements provided by Chapter 16.200 of this Code.
 5. Linear utility projects with less than 1,000 feet of cumulative open trench construction that are located outside the boundaries of a development project.
- B. If the land disturbance activity threatens or impedes the ability of the City to meet its own permit requirements under the National Pollutant Discharge Elimination System (NPDES), the Director of Planning and Development Services may terminate the exemption and require the applicant to obtain a land disturbance permit in full compliance with Chapter 16.200 of the Code.
(History: Ord. ZRR-2564 §3, 2005; ZRR-2420 §7, 2003)

18.130.013 General land disturbance permits for franchised and/or public utilities

In lieu of obtaining individual project Land Disturbance Permits for utility-funded linear projects, the City may issue a General Permit to franchised and public utilities which shall be renewed annually. To apply for a General Permit, the utility must submit a permit application which includes:

1. Effective erosion control standards and construction methods that are to be implemented on the utility's projects, conforming to Chapter 16.200. The General Permit does not relieve the utility of the responsibility of preparing and implementing

- project specific Storm Water Pollution Prevention Plans (SWPP), as defined by the State of Kansas, for projects disturbing over one acre of area.
2. A procedure to notify the City, no less than 14 days prior to work beginning, of projects disturbing a cumulative area greater than one acre. The notification shall be accompanied by a copy of the Storm Water Pollution Prevention Plan (SWP2) and the associated Kansas Department of Health and Environment (KDHE) Notice of Intent (NOI).
 3. A mechanism to reimburse the City for the cost of all abatement actions. The Director may revoke a Land Disturbance General Permit for failure to reimburse City abatement costs within 60 days of receipt of an abatement invoice.

The utility must notify the Director in writing within 14 days of any State or Federal citations related to erosion and sediment control violations in the City. The Director shall revoke any general permit when the activities authorized by that General Permit cause the City of Overland Park to be noncompliant with the City's National Pollutant Discharge Elimination System (NPDES) permit.

(History: Ord. ZRR-2564 §4, 2005)

18.130.014 Land disturbance permits -- limitations of usage

Construction of a project with a final development plan approved by the Planning Commission or the Director of Planning and Development Services requires a site development permit or a building permit, or both if a project is constructed in phases. Construction of a project with a final development plan cannot be accomplished solely through a land disturbance permit.

(History: Ord. ZRR-2420 §8, 2003)

18.130.015 Site development permits -- when required

A site development permit authorizes any land disturbance activity listed in Section 18.130.010 and the following additional items: construction of any site improvements including but not limited to: pavement; curbs; sidewalks; private stormwater conveyance and treatment facilities; retaining walls and bank stabilization and work related to such construction, including but not limited to clearing, grading and grubbing, unless a building permit authorizes the work. A site development permit may be waived by the Director of Planning and Development Services for work of a minor nature such as sidewalks on private property, retaining walls under four feet in height, patios and other minor flatwork, residential driveways, maintenance or in-kind replacement of existing driveways and parking lots, and similar construction. All private sidewalks, except those on individual residential lots, within the City shall require a site development permit and shall be in accordance with the standard detail and minimum design standards and specifications for construction as set forth in the standard adopted by the Director pursuant to Section 18.120.015.

(History: Ord. ZRR-2715 §2, 2008; ZRR-2675 §1, 2008; ZRR-2564 §5, 2005; ZRR-2420 §9, 2003)

18.130.016 Public improvement permits – when required

A public improvement permit shall be obtained from the Director of Planning and Development Services prior to construction of any privately funded construction of public streets, public storm sewer systems, public street lighting and the appurtenances related to these public facilities.

(History: Ord. ZRR-2564 §6, 2005)

18.130.020 Building permits -- when required

A building permit shall be obtained from the Director of Planning and Development Services prior to commencement of construction or expansion of any building or structure when required by this ordinance or Title 16 of the Code.

(History: Ord. ZRR-2420 §10, 2003; ZRR-1725; ZRR-1637)

18.130.025 Adoption by reference of Addressing Standards; Relationship to other provisions of the code.

- A. There is incorporated by reference, for the purpose of adopting Addressing Standards within the City, the Addressing Standards, Final Draft, dated March 17, 2005, as prepared by the City of Overland Park, Kansas. Not less than three (3) copies of said Addressing Standards shall be marked Official Copy as Adopted by Ordinance No. ZRR-2528, to which shall be attached a copy of the ordinance codified herein, and filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours. The Municipal Court and all administrative departments of the City charged with the enforcement of the ordinance shall be supplied at the cost of the City such number of official copies of such ordinance as may be deemed expedient.
- B. Prior to the issuance of any building permit, an address shall be assigned based on the standards contained in the Overland Park Addressing Guidelines
- C. The provisions of this adopted code are identified as standards, and shall be considered ordinance requirements. Where they are specifically applicable, they shall prevail over any conflicting provisions elsewhere in the Unified Development Ordinance unless otherwise specified.

(History: Ord. ZRR-2528 §1, 2005)

18.130.030 Land disturbance permits, site development permits and building permits -- applications

- A. Applications for land disturbance, site development, or building permits shall be filed upon forms prescribed by the City and conform with the following:
 - 1. Construction documents shall clearly indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance, and other relevant laws, rules and regulations as determined by the Director of Planning and Development Services.
 - 2. The construction documents shall include a site plan drawn to scale showing the size and location of new construction and existing structures on the site and the legal description of the lot tract or parcel.

3. The construction documents shall include a grading plan, drainage map, and a erosion and sediment control plan in conformance with Chapter 16.200 of this Code.
- B. Applications for land disturbance permits and site development permits shall be submitted for approval by the Director of Planning and Development Services. Issuance of land disturbance permits and site development permits shall conform to the following:
1. Where the proposed land disturbance activity covers multiple tracts of land or multiple lots, the permit shall be issued only to the common owner.
 2. A contact person or field representative shall be identified on every permit as a responsible party whom the City can contact regarding the installation, maintenance, and removal of erosion and sediment control measures. The permit holder is responsible for timely written notification to the Codes Administrator of any changes to the contact person or field representative.
 3. The permit holder may request that the permit be transferred to another party. The transfer of a permit from one party to another shall be subject to the approval of the Director of Planning and Development Services and not be effective until written approval is issued.
 4. The owner of the property may designate, in writing, others to act on his or her behalf, however the responsibility for compliance with this Code with respect to land disturbance activities shall remain with the owner of the property until the issued permit has been officially closed.
- C. Applications for site development permits shall be submitted for approval by the Director of Planning and Development Services.
- D. Land disturbance permits issued for land disturbances less than one acre are intended to track small projects that may impact the public safety and welfare, or sensitive areas. In these cases, a site-specific erosion and sediment control plan is not required unless deemed necessary by the Director of Planning and Development Services. The applicant is required to acknowledge their intent to conform with the City's standards for erosion and sediment control in accordance with Chapter 16.200 of this Code and shall employ BMP methods proportional to the scale of the land disturbance activity.
- E. Applications for building permits shall be submitted for approval by the Director of Planning and Development Services.
(History: Ord. ZRR-2564 §7, 2005; ZRR-2420 §11, 2003; ZRR-1725; ZRR-1637)

18.130.040 Number of permits required for buildings

When construction of groups of buildings and accessory buildings for a principal building is to be simultaneous, and when all the buildings are to be constructed on land zoned for one classification and use, the Code Administrator may, in his or her discretion, issue one permit for such groups of buildings or may require a separate permit for each building or structure to be constructed.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-889 §18.54; ZRR-412-19; ZRR-412 §28)

18.130.045 Site development and building permits - compliance with subdivision regulations

No building permit to allow the construction of new floor area, nor site development permit for recreational facilities shall be issued unless the applicant can demonstrate compliance with the standards and requirements of Chapter 18.460. Provided, however, that land which has already been platted need not be replatted so long as all other requirements of Chapter 18.460, including but not limited to development standards and required improvements, are satisfied. Provided further, that the owner of a single lot may apply to the Planning Commission for a rule exception according to the standards set forth in Section 18.460.210.

(History: Ord. ZRR-2420 §12, 2003; ZRR-1725)

18.130.050 Site development permits and building permits - minimum rights-of-way required

- A. When a site development permit, or building permit is requested on a lot or tract abutting a public street other than a thoroughfare as defined in Section 18.400.020.D., the Director of Planning and Development Services shall determine that adequate right-of-way exists on that portion of the public street abutting the property. The minimum right-of-way, measured from the center line of the street to the property line of the lot or tract, shall be determined based upon the classification of the abutting street. Classification of the abutting street shall be determined by reference to the Master Plan, the Official Street Map or a master street plan; if the classification is not designated on any of such documents, the Director of Planning and Development Services shall determine the street classification by reference to existing or planned land uses of abutting properties.
- B. Once the street classification has been determined, right-of-way requirements shall be calculated in an amount equal to one-half of the total right-of-way requirement established for such street classification in Title 13 of the Code and summarized in Table 18.460.110 of this ordinance. Where the property lies on both sides of the public street, the right-of-way requirement shall be equal to the amount set forth in Title 13 of the Code and summarized in Table 18.460.110 of this ordinance.
- C. No site development permit or building permit shall be issued for any lot or tract where the abutting right-of-way does not clearly comply with the right-of-way requirements until title for the additional required right-of-way has been conveyed to the City by plat or deed and accepted by the Governing Body.
- D. Any requirement for dedication of right-of-way pursuant to this section may be waived by the Director of Planning and Development Services where the permit being requested does not result in a change or expansion of use of the property or an increase in the square footage of any building.

(History: Ord. ZRR-2420 §13, 2003; ZRR-2015 §8, 97; ZRR-1725; ZRR-1637)

18.130.055 Building permits and site development permits -- compliance with existing land disturbance permits.

Issuance of any building permit or site development permit that is part of a common plan of development with a pre-existing land disturbance permit, will require written agreement by the permit applicant to comply with the provisions of the pre-existing land disturbance permit.

(History: Ord. ZRR-2420 §14, 2003)

18.130.057 Building permits, site development permits and land disturbance permits -- closure.

- A. Closure of a building permit shall be completed in accordance with the provisions of Title 16 of this Code. In cases where there is not a separate land disturbance permit or site development permit issued for a particular site, a final certificate of occupancy shall not be issued until the site has been permanently stabilized and all temporary erosion and sediment control BMP's are removed, and all drainage and grading is found to be in compliance with this Code.
- B. Closure of a site development permit shall be completed by obtaining a satisfactory final inspection and issuance of a certificate of compliance or certificate of occupancy by the Codes Administrator. In cases where there is not a separate land disturbance permit issued for a particular site, a certificate of compliance shall not be issued until the site has been permanently stabilized, all temporary erosion and sediment control BMP's are removed, and all drainage and grading has been found to be in compliance with this Code.
- C. Closure of a land disturbance permit or site development permit is independent of closure of other permits. If a site has been partially stabilized, a land disturbance permit can be closed upon issuance of a subsequent land disturbance permit covering remaining unstabilized areas. Closure of a land disturbance permit or site development permit shall be completed by obtaining a satisfactory final inspection and issuance of a certificate of compliance. Timing of final inspections for land disturbance permits shall conform with the following:
 - 1. For single-family or two-family construction only, where the permit holder seeks closure of the entire site subject to the permit, a final inspection can be completed when all housing units have received final certificates of occupancy, or when all of the following have occurred;
 - a. The Land Disturbance Permit for the overall development has been in place at least three (3) years.
 - b. All areas not covered by buildings, pavement, or other permanent structures have final stabilization in place in accordance with the City's erosion and sediment control specifications.
 - c. The rate of home construction for the previous two years disturbs less than one (1) acre per year or less than one (1) acre of land remains to be developed.
 - d. All temporary erosion and sediment control devices serving more than one (1) lot are no longer needed and have been removed.

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In cases where a Land Disturbance Permit has been closed based upon satisfaction of items a-d above, and the rate of home construction exceeds one (1) acre per year, a new land disturbance permit for all vacant lots shall be required. Failure to obtain a new land disturbance permit shall be a violation of Chapter 16.200 of the Municipal Code.

2. For development other than single-family or two-family residential development, a final inspection can occur when all temporary erosion and sediment control BMP's serving more than one lot are no longer needed and are removed.
 3. For single-family or two-family multiple lot permits; the land disturbance or site development permittee is not responsible for activities that occur on an individual lot after all dwellings on the lot have received a Certificate of Occupancy. Individual lots must pass a final erosion and sediment control inspection prior to issuance of a certificate of occupancy and release from the general development land disturbance permit.
- D. Certification for permanent stormwater treatment facilities required by Chapter 16.210: Prior to closing a permit of any kind that includes permanent stormwater treatment facilities, written certification that the facilities are constructed in accordance with the approved plans shall be submitted. The certification must be prepared by the designer or others approved by the Director. Alternately, Section 16.210.080 has specific provisions that allow construction of some stormwater treatment facilities to be delayed.
(History: Ord. ZRR-2838 §1, 2009; ZRR-2675 §2, 2008; ZRR-2564 §8, 2005; ZRR-2420 §15, 2003)

18.130.060 Sign permits -- when required

A sign permit shall be obtained from the Director of Planning and Development Services prior to installation or construction of any sign except those signs specifically exempted from such requirement pursuant to the provisions of Chapter 18.440.

(History: Ord. ZRR-2343 §13, 2002; ZRR-1725; ZRR-1637; ZRR-889 §18.52)

18.130.070 Sign permits -- applications

Applications for sign permits shall be filed upon forms prescribed by the City, accompanied by two sets of plans drawn to scale indicating the sign size, location, method of illumination, colors, materials of the sign and structure, and method of attachment. In the case of signs other than freestanding signs, the plans shall depict the entire facade on which the sign is to be mounted or attached. In addition, the applicant shall submit any other information relating to the placement, construction, design, etc. of the sign as may be required by the Director of Planning and Development Services.

(History: Ord. ZRR-2343 §14, 2002; ZRR-1725; ZRR-1637; ZRR-889 §18.52)

18.130.080 Permits -- conformance of construction

No permit shall be issued for any building, structure, sign or disturbance of land unless the same shall be in conformance in every respect with:

- A. All provisions of this ordinance;
- B. Any conditions or stipulations attached to the approval of any applicable rezoning, special use permit, preliminary development plan, final development plan, site plan or other form of development plan approval;
- C. The content of any applicable final development plans, site plans, or other development plans approved by the Governing Body, Planning Commission or the Planning & Development Services Department; and
- D. Title 16 of the Code and any other applicable provisions of the Code.
(History: Ord. ZRR-2420 §16, 2003; ZRR-2343 §15, 2002; ZRR-1925; ZRR-1725; ZRR-1637; ZRR-889 §18.54; ZRR-777)

18.130.090 Action on permit applications

In the event of refusal to issue a permit upon an application based upon noncompliance with the provisions of this ordinance, the applicant shall have the right to appeal to the Board of Zoning Appeals as set forth in Chapter 18.140.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-889 §18.54)

18.130.095 Suspension of permits

Suspension of building, site development, and land disturbance permits shall comply with the following:

- A. Suspension of building permits are subject to the provisions of Title 16 of this Code.
- B. A land disturbance or site development permit can be suspended by the City if the Director of Planning and Development Services determines that:
 - 1. The site is not in substantial compliance with the approved plan or any permit condition.
 - 2. A violation of any provision of this Chapter or any other applicable law, ordinance, rule, or regulation relating to this work exists.
 - 3. A condition exists, or act is being done that constitutes a nuisance or hazard or endangers human life or the property of others.
 - 4. The approved plan is failing to achieve required erosion and sediment control objectives due to improper installation, maintenance, or failure of the plan to perform anticipated erosion and sediment control functions as required by Chapter 16.200 of this Code.

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- C. A site development or land disturbance permit shall be suspended by issuance of written notice to the permit holder, or the permit holder's representative. The notice shall indicate the reason for permit suspension and indicate corrective measures required and the timeframe within which corrections must be made to reinstate the permit. The notice shall also include a stop work order pursuant to Chapter 16.200 of the Code, if not previously issued. If the applicant fails to make corrective measures within the timeframe required the Director of Planning and Development Services may revoke the permit.

(History: Ord. ZRR-2420 §17, 2003)

18.130.098 Expiration of permits

Expiration of building, site development, and land disturbance permits shall comply with the following:

- A. Expiration of building permits are subject to provisions of Title 16 of this Code. Additionally, land disturbance activities authorized by a building permit that are not stabilized following expiration of a building permit are subject to abatement provisions pursuant to Chapter 16.200 of this Code.
- B. Site development permits shall expire if the authorized work has not commenced within 180 days of permit issuance, or if the authorized work is suspended or abandoned for a period of greater than 180 days. The Director of Planning and Development Services is authorized to grant, in writing, extensions up to 180 days each.
- C. Land disturbance permits shall expire if the authorized work has not commenced within 180 days after permit issuance. A land disturbance permit shall not expire after land disturbance activities have begun, but shall be closed pursuant to Section 18.130.057.

(History: Ord. ZRR-2420 §18, 2003)

18.130.100 Revocation of permits

A permit may be revoked by the official issuing the permit at any time prior to the completion of the land disturbance, site development, building, structure or sign for which the same was issued, when it appears to such official that one or more of the following conditions is present: there is departure from the plans, specifications or conditions as required under the terms of the permit; that the permit was procured by false representation; that the permit was issued by mistake; or that any of the provisions of this title are being violated. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which such permit was issued, or shall be posted in a prominent location on the property. Where notice of revocation has been served or posted, no further construction or use of the property shall proceed. Any revocation of a permit other than a building permit may be appealed to the Board of Zoning Appeals as provided in Chapter 18.140. Except where revocation of a building permit is successfully appealed to the Code Board of Appeals, or another permit revocation is successfully appealed to the Board of Zoning Appeals, a revoked permit may not be reinstated.

(History: Ord. ZRR-2420 §19, 2003; ZRR-1725; ZRR-1637; ZRR-889 §18.54; ZRR-837)

18.130.110 Certificates of occupancy -- when required

No new or existing building or structure shall be occupied or used, and no change in the character or use of land or of a building shall occur, until a certificate of occupancy has been issued by the Code Administrator certifying that such building or use complies with all regulations of this ordinance, Title 16 and other applicable provisions of the Code.

(History: Ord. ZRR-1725; ZRR-1637)

18.130.120 Certificates of occupancy -- records

A record of all certificates of occupancy shall be kept on file in the office of the Code Administrator.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-889 §18.58)

18.130.130 Certificates of occupancy -- connection with sewer system

Except where some other method of handling liquid waste has been specifically approved by the City, no certificate of occupancy shall be issued by the Code Administrator for any building or use until the property has been connected with a public sanitary sewer system.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-889 §18.58)

18.130.140 Certificates of occupancy -- parking

Prior to issuance of a certificate of occupancy for a new use or change in use of an existing building or structure, all parking requirements as specified in this ordinance for the new use shall be met.

(History: Ord. ZRR-1725; ZRR-1637; ZRR-889 §18.58)

18.130.150 Filing fees

Filing fees for all applications for permits and certificates of occupancy shall be established by resolution of the Governing Body. Filing fees may be reviewed on an annual basis and revised as necessary by adoption of a new resolution. Copies of the current resolution establishing filing fees shall be on file in the offices of the City Clerk, the Director of Planning and Development Services and the Code Administrator.

(History: Ord. ZRR-2343 §16, 2002; ZRR-1725; ZRR-1637; ZRR-889 §18.54)

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