

ORDINANCE NO. SWM-3426

AN ORDINANCE RELATING TO STORMWATER MANAGEMENT FOR THE CITY OF OVERLAND PARK, KANSAS; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 15.10.200, 15.10.300, 15.10.400, 15.10.450, 15.10.600 AND 15.10.700 AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, AS FOLLOWS:

Section 1. Overland Park Municipal Code Section 15.10.200 is hereby amended to read as follows:

15.10.200 Methods of Conveying Stormwater.

As required by Section 13.10.020, the City Engineer will adopt, maintain and make available the Standards for methods of conveyance for stormwater, except for building roof drains which are regulated by the currently adopted version of the International Building Code. Additionally, 18.365 establishes City criterion for protecting natural streams and Section 18.365.030 provides specific exceptions which allow storm sewer improvements.

Methods of conveying stormwater vary, depending on the natural watershed size. Watersheds with tributary areas less than 40 acres may utilize the natural stream OR underground storm sewers combined with overland flow. Watersheds with tributary areas greater than 40 acres shall utilize the natural stream for stormwater conveyance. When the watershed's tributary area is greater than 40 acres, underground storm sewer systems may be authorized only when one of the following is met:

- A. 18.365 criterion provides relief from dedication of a stream corridor.
- B. The project qualifies for an exception in Section 18.365.030.
- C. A deviation is granted, as provided in Section 18.365.100.

Engineered channels and/or relocating natural streams are not approved methods of conveyance for stormwater; however, the City Engineer may adopt standards for these methods of conveyance for use under the following conditions:

- A. A deviation, as specified in Section 18.365.100, is granted.
- B. A variance may be granted by the Governing Body when the Section 18.365.100 deviation process does not apply.
- A. In an RE District, if the watershed is less than 40 acres and the channel is outside of street right-of-way, an engineered channel is allowed. In addition to the setback requirements established in 18.365, no building shall take place within 60 feet of the centerline of any channel in the RE District.
- B. A natural conveyance swale, or similar facility permitted for conveying stormwater is designed as an integral part of a stormwater treatment facility. Limitations for usage, locations and building setbacks for such facilities are provided in the Stormwater Treatment Standards as set forth under 16.210 of this Code.

Section 2. Overland Park Municipal Code Section 15.10.300 is hereby amended to read as follows:

15.10.300 Lakes and Ponds.

In addition to the Standards, private lakes and ponds in subdivisions shall conform to the following minimum standards, which have been established to limit routine maintenance expenses experienced by the private lake and pond owners.

- A. The minimum surface area is two acres per lake or pond, with the minimum maintained depth of four feet, or ten feet if intended to support fish, except that decorative water features not serially connected to the storm drainage system of the development are exempt from the minimum area requirement. Minimum depth and surface area requirements are not applicable to all or portions of such facilities designed as a stormwater treatment facility. Design requirements for stormwater treatment facilities are set forth under [16.210](#);
- B. Design priority must be given for ease of removing accumulations of silt, including access for equipment and trucks, drainage of the lake or pond if feasible;
- C. Plans for lakes and ponds must be approved by the City Engineer and include emergency spillway design in accordance with state law and the Standards, and provisions for suitable soil testing for dam and lake or pond construction;
- D. Necessary state approvals and permits are to be obtained by the developer; and
- E. An agreement running with the land must be executed by the applicant and approved by the Law Department declaring that the City has no past, present or future obligation to expend any public funds or to take any other action to maintain or improve the lake, lakes, pond, or ponds, including any inlet or outlet structures, or any portion of the drainage facilities approved by private facilities. This agreement must require that funds be collected from property owners sufficient to pay for the maintenance of lake, pond and storm sewer facilities.

Section 3. Overland Park Municipal Code Section 15.10.400 is hereby amended to read as follows:

15.10.400 Stormwater Detention.

Stormwater detention facilities shall be constructed with all proposed developments that result in an increase in peak discharge from the site whenever downstream homes or habitable buildings are flooded in a 1% or more frequent storm, or when such homes and buildings would be flooded as a result of future development, either individually or cumulatively in the watershed, or whenever streets are subjected to flooding in excess of the Standards, except that detention is not required under any of the following circumstances:

- A. When such flooding occurs within the Special Flood Hazard Area, as defined in [18.360](#) and the watershed is greater than 5000 acres.
- B. If the project does not increase impervious area.
- C. When such development meets both of the following;
 - 1. The development is one or more contiguous lots or parcels under common ownership and not part of a larger common plan of development, or redevelopment, that in total includes one (1) acre or less of land.
 - 2. When such development is residential in nature and the allowed density under

the zoning district is less than or equal to 12.5 dwelling units per acre.

- D. For developments larger than one (1) acre, where stormwater detention has not been previously provided on the site, a cumulative 8,000 square feet of additional impervious surface may be permitted without providing detention. Cumulative impervious area shall be measured from September 1984, the effective date of the first detention ordinance. For purposes of this ordinance, pervious pavement shall be considered fully pervious.
- E. Problems are identified in a watershed that had not previously required a detention study, and if the remaining increase in flooding caused by the cumulative remaining development in the watershed is less than 0.05 feet for building flooding or 0.2 feet for roadway flooding, or if the increase in peak flow rate from the cumulative remaining development in a basin is less than 0.5%.
- F. If the City Engineer determines that detention would be ineffective to prevent flooding or would aggravate existing flooding conditions.
- G. When the City Engineer determines that reasonably anticipated future problems can be solved by alternate storm drainage improvements constructed through the use of escrowed funds in accordance with this Section or other funding methods, or when alternative storm drainage improvements are constructed by the developer or when such downstream problems are due to a unique characteristic of a downstream building or buildings that could be corrected at reasonable cost and effort by their owner or owners.
- H. Either a current or previous owner of a development site tributary to the Kingston Lake Regional Detention Facility has contributed funds to 151st Street Associates for the construction of that facility, and there is no flooding of homes and habitable structures or flooding of streets in excess of the Standards between the development site and Kingston Lake.
- I. "Flooding" of homes and habitable buildings, for the purposes of stormwater detention, shall be defined as when the structure's lowest adjacent grade is less than one foot above the energy grade line of the 1% storm for fully developed conditions upstream AND the property owner is unable to fill adjacent to the structure to meet this criteria.

Section 4. Overland Park Municipal Code Section 15.10.450 is hereby amended to read as follows:

15.10.450 Downstream Improvement Alternative to Storm Water Detention.

In cases where a downstream flooding problem may reasonably be anticipated due to future development in a watershed, the City Engineer may, at their discretion and with the developer's consent, approve a plan of downstream flood relief in lieu of on-site detention. In such instances, an escrow deposit in the form of cash deposit in accordance with City policy and in an amount sufficient to pay an area-based proportional share of the cost of constructing a downstream flood relief project shall be required. The amount of the escrow deposit shall be calculated by the City Engineer for each drainage basin based on sufficient funds being collected to correct the problem when undetained development in the basin is one-half of the watershed area.

The cash deposit shall be deposited with the City's Director of Finance, Budget and Administration. The funds collected shall be placed in an escrow account and set aside for the construction of the downstream flood relief project. The improvements will be made within 20 years from the time cash is placed into escrow or within 19 years from the cashing of the irrevocable letter of credit. In the event that the improvements are not made within the respective times stated above, the funds from the escrow account together with the actual accrued interest shall be returned to the

developer or his successors in interest. In the event the actual construction costs are less than that estimated by the City Engineer, a proportionate share of the surplus funds shall be returned to the developer or his successors in interest.

Section 5. Overland Park Municipal Code Section 15.10.600 is hereby amended to read as follows:

15.10.600 Insurance.

All contractors shall secure and maintain insurance coverage in accordance with provisions of [13.10.090](#).

Section 6. Overland Park Municipal Code Section 15.10.700 is hereby amended to read as follows:

15.10.700 Surety Submission; Amount and Period.

All contractors shall submit a surety in the amount and for the period set out in accordance with the provisions of [13.10.100](#) except private storm water detention facilities are not required to post a maintenance bond. The City Engineer may also waive the requirement for a storm water detention facility surety when: 1) the work is authorized by a building permit to construct a building of greater value than the required storm water detention surety or 2) all building permits within a residential subdivision are withheld until the detention facility is completed.

Section 7. Existing Overland Park Municipal Code Sections 15.10.200, 15.10.300, 15.10.400, 15.10.450, 15.10.600 and 15.10.700 are hereby repealed.

Section 8. This Ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

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PASSED by the City Council this 4th day of March, 2024.

APPROVED by the Mayor this 4th day of March, 2024.

CITY OF OVERLAND PARK, KANSAS

(SEAL)

ATTEST:

(s) Elizabeth Kelley
Elizabeth Kelley, City Clerk

(s) Curt Skoog
Curt Skoog, Mayor

APPROVED AS TO FORM:

(s) Trevor Stiles
Trevor Stiles, Assistant City Attorney