

ORDINANCE NO. 2718

AN ORDINANCE AMENDING CHAPTER 27, UTILITIES, OF THE CODE OF ORDINANCES OF THE CITY OF CEDAR FALLS, IOWA, BY ADDING THERETO NEW ARTICLE VI, POST-CONSTRUCTION STORMWATER CONTROL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR FALLS, IOWA:

Section 1. Chapter 27, Utilities, of the Code of Ordinances of the City of Cedar Falls, Iowa, is hereby amended by adding thereto new Article VI, Post-Construction Stormwater Control, as follows:

ARTICLE VI. POST-CONSTRUCTION STORMWATER CONTROL

Sec. 27-401. Findings.

- (a) The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of stormwater from a Municipal Separate Storm Sewer System (MS4) (the "MS4 Permit"). The City of Cedar Falls ("City") is subject to the Program and is required to obtain, and has obtained, an MS4 Permit. The City's MS4 Permit is on file at the office of the city clerk and is available for public inspection during regular office hours.
- (b) As a condition of the City's MS4 permit, the City is obligated to implement and enforce a Post-Construction Stormwater Control Ordinance.
- (c) No state or federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its operations under this article entirely by charges imposed on the owners or developers of properties that are made subject to the Program by virtue

of state and federal law, and/or other sources of funding established by a separate ordinance.

- (d) Land development and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; this stormwater runoff contributes to increased quantities of water-borne pollutants; and stormwater runoff, soil erosion and nonpoint source pollution may be controlled and minimized through the regulation of stormwater runoff from development sites.
- (e) Therefore, the City establishes this set of City stormwater standards applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff, is in the public interest and will prevent threats to public health and safety.
- (f) The "Iowa Stormwater Management Manual" published collaboratively by the Iowa Department of Natural Resources and The Center for Transportation Research and Education at Iowa State University establishes guidelines consisting of unified sizing criteria, stormwater management designs and specifications and best management practices (BMPs). The City hereby finds and declares that the guidelines provided for in the Iowa Stormwater Management Manual should be and are hereby adopted as stormwater guidelines for the City.

Sec. 27-402. Purpose and Intent.

- (a) The purpose of this article is to set the City's standards as the guidelines established in the Iowa Stormwater Management Manual ("City's stormwater requirements" or "standards") in order to protect and safeguard the general health, safety, and welfare of the public within this jurisdiction. This article seeks to meet that purpose by:
 - (1) Minimizing increases in stormwater runoff from developments within the city limits in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion;
 - (2) Minimizing increases in nonpoint source pollution caused by stormwater runoff from developments that would otherwise degrade local water quality;
 - (3) Minimizing the annual volume of surface water runoff which flows from a developed site by not exceeding the pre-development hydrologic regime; and
 - (4) Reducing stormwater runoff rates, volumes, and soil erosion, through establishment of appropriate minimum stormwater management standards and BMPs and ensuring that stormwater

management facilities are properly maintained and pose no threat to public safety.

- (b) **Compatibility with Other Permit and Ordinance Requirements.**
 - (1) It is intended that this article be construed to be consistent with Article III, Stormwater Management Program, Article IV, Illicit Discharge Detection and Elimination and Article V, Construction Site Erosion and Sediment Control," of this chapter.
 - (2) The requirements of this article shall be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever is more restrictive or imposes a higher standard of protection for human health or the environment shall be considered to take precedence.

Sec. 27-403. Applicability.

- (a) This article shall be applicable to all subdivision or site plan applications meeting the minimum requirements of a development or redevelopment, as defined in Section 27-403(b)(1) through (4), unless eligible for an exemption or granted a waiver by the City under Section 27-409 of this article. City stormwater requirements must be met in order for a development or redevelopment to be approved, and shall apply to any development or redevelopment, as defined in Section 27-403(b)(1) through (4), but the following activities are exempt from this article:
 - 1. Any logging or agricultural activity which is consistent with an approved soil conservation plan or an approved timber management plan.
 - 2. Additions or modifications to existing single family structures.
- (b) When a development plan is submitted to the City that qualifies as a development or redevelopment, the procedures and requirements of Section 27-405 of this article shall be followed. Final authorization of all development and redevelopment projects shall be determined after a review by the City. Plans that must comply with Section 27-405 are:
 - 1. Land disturbing activity exceeding 43,560 square feet in area on land previously vacant of buildings or largely free of previous land disturbing activity other than traditional agricultural activities; or
 - 2. Land disturbing activity creating 5,000 square feet in area or more of impervious cover; or
 - 3. Land disturbing activities that are smaller than the minimum square feet applicability criteria set forth in this subsection, if such activities are part of a larger common plan of development that may or may not take place at the same time; or
 - 4. Land disturbing activity exceeding 25,000 square feet in area where the existing land is being redeveloped.

Sec. 27-404. Definitions.

- (a) Terms or acronyms used in this article shall, unless defined in this article, have the meanings given to them in section 27-114 of this Code, except where the context clearly indicates a different meaning.
- (b) As used in this article, the term "*city engineer*" includes any other representative of the city engineer's office that is designated by the city engineer to act in the place and with the authority of the city engineer. Also so defined, the city engineer is also referred to in this article as the "enforcement officer." The city engineer shall have responsibility for administration and enforcement of this article.
- (c) "Building" means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.
- (d) Best Management Practices (BMPs) are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.
- (e) "City stormwater requirements" are set forth in Section 27-406(c)(2) and are based upon the Iowa Stormwater Management Manual.
- (f) "Dedication" means the deliberate appropriation of property by its owner for general public use.
- (g) "Developer" means a person who undertakes land disturbing activities.
- (h) "Drainage Easement" means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
- (i) "Iowa Stormwater Management Manual" means the manual collaboratively developed by the Iowa Department of Natural Resources (IDNR) and the Center for Transportation Research and Education (CTRE) at Iowa State University that contains the sizing criteria, design and specification guidelines and BMPs that address stormwater quality and quantity management. This manual can be found on the web at the following address: <http://www.ctre.iastate.edu/pubs/stormwater/index.cfm>.
- (j) "Maintenance and Repair Agreement" means an agreement between the City and property owner(s) that shall be filed at the county recorder's office by which the property owners of all lots or land benefiting from the stormwater management facility grant access for maintenance and repair by means of an easement.
- (k) "Regional Stormwater Management Facility" means a facility collecting 2 or more square miles of a drainage area or a facility having a retention or detention basin with a storage depth of 10 feet or more and which stores 10 acre-feet or more of water. The facility is required to be on public right-of-way, accessible by street right-of-way, is required to have a perimeter

of at least 25 feet, be located within the city limits, and the discharge from which flows through the city limits.

- (l) "Stormwater Management" means the use of BMPs that are designed in accordance with City stormwater requirements to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Sec. 27-405. Submittal Process.

- (a) No land owner or developer shall receive any of the building, grading or other land development permits required for land disturbing activities without first meeting the requirements of this article prior to commencing the proposed activity.
- (b) Required Submittals: A complete stormwater management plan requires the following submissions to the city engineering department:
 - (1) A Stormwater Pollution Prevention plan (SWPPP) permit application and fee;
 - (2) A stormwater management plan (See Section 27-406); and
 - (3) A Maintenance and Repair Agreement (See Section 27-408).
- (c) Submittal Review Process: Once the City receives a complete stormwater management plan, the City shall proceed as follows:
 - (1) The City shall inform the applicant whether the permit application for the SWPPP, stormwater management plan, and Maintenance and Repair Agreement are approved or disapproved after the receipt of a complete stormwater management plan.
 - (2) If the SWPPP application, stormwater management plan, or Maintenance and Repair Agreement are disapproved, the applicant may revise the permit application, the stormwater management plan, and/or the Maintenance and Repair Agreement. If additional information is submitted the City shall notify the applicant that the stormwater management plan and Maintenance and Repair Agreement are either approved or disapproved.
 - (3) If the SWPPP application, stormwater management plan, and Maintenance and Repair Agreement are approved, the SWPPP permit shall be issued by the City.

Sec. 27-406. Requirements for Approval of Stormwater Management Plan.

- (a) *Stormwater Management Plan.* No application for a development shall be accepted unless it includes a plan detailing the stormwater management facility, and the control and management of the runoff and water quality impacts resulting from the development.
- (b) The stormwater management plan shall:
 - (1) Be prepared by either a licensed professional engineer or registered architect if a site is more than five acres of disturbed area. A site with five acres or less of disturbed area shall be prepared by either a licensed professional engineer, a registered architect (including a

- registered landscape architect), or a professional in erosion and sediment control, as the applicant's engineer. Applicant's engineer shall be credentialed in a manner acceptable to the city, and shall be referred to in this article as the "applicant's engineer," and
- (2) Indicate whether stormwater will be managed on-site or off-site, and applicable provisions of the general location and type of BMPs, with clear citations to the Iowa Stormwater Management Manual.
- (c) The stormwater management plan shall include the following information:
- (1) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management facility and sediment and erosion BMPs. The map(s) shall also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; and the limits of clearing and grading.
 - (2) Sufficient engineering analysis to show compliance with the City Stormwater Requirements, including the following:
 - a. Rainfall events, up to and including 1.25" of rain, shall be released at a continuous rate over 24 hours or provide an adequate Maintenance and Repair Agreement to manage this level of rainfall event off-site.
 - b. All rainfall events greater than 1.25" of rain and up to the one hundred-year rainfall event shall be released at the rate of the two-year frequency rainfall event on the site as it existed in its natural, undeveloped state.
 - c. If there are reasons why a. or b. above cannot be achieved, an applicant may apply for a waiver as provided in section 27-409.
 - (3) A written or graphic inventory of the natural resources present at the site and extending a minimum of 500 feet beyond the limits of the site of the proposed development. A description of the watershed for the project shall include soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site.
 - (4) The City may also require that the applicant file a conceptual plan to analyze the maximum development potential of a site under existing zoning regulations, regardless of whether the applicant presently intends to develop the site to its maximum potential.
 - (5) For developments occurring on a previously developed site, an applicant shall be required to include existing stormwater runoff discharges.
 - (6) Contact Information, including the name and address of the owner(s) of the property, and a list of the owner(s) and addresses of adjacent properties.
 - (7) Topographic base map, consisting of a scalable topographic base map of the site which extends a minimum of 500 feet beyond the

limits of the proposed development and which indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land uses, including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features.

- (8) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the two-year, ten-yr, and one hundred-year rainfall events. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) soil curve numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff, and (ix) documentation of sources for all computation methods and field test results.
- (9) If a stormwater management facility depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pit profiles shall be determined based on what is necessary to determine the suitability and distribution of soil types present at the location of the facility.
- (10) Landscaping and vegetative stabilization shall comply with the City's stormwater requirements and shall prevent impairment of BMPs.
- (11) A Maintenance and Repair Agreement for all stormwater management facilities (see Section 27-408). In the event the applicant and the City agree that the Regional Stormwater Management Facility installed by the applicant is to be dedicated to the City, the City shall prepare a dedication agreement on such terms and conditions as the City determines are appropriate, which may include requirements that the applicant pay all installation costs and fees.
- (12) Proof of the recorded Maintenance and Repair Agreement shall be given to the City. The agreement shall require the following:
 - a. The agreement shall require all benefiting properties to participate in the maintenance and repair of the stormwater management facility; and
 - b. Said applicant has accepted such responsibility in a written document and has recorded the document in the county recorder's office under Iowa law; and
 - c. Said applicant understands that this easement shall grant the City the right to correct any maintenance or repair issues not corrected by the applicant with said facility and assess the cost of maintenance and repairs to all benefiting

properties as liens to be collected in the same manner as property taxes.

- (13) Performance Bond.
The cost of the stormwater management facility shall be included in the amount of the cash escrow or payment and performance bond required under Chapter 24 of this Code.
- (14) Maintenance Bond.
The cost of the stormwater management facility shall be included in the amount of the subdivision maintenance bond required to be posted by the developer under Chapter 24 of this Code.
- (d) The stormwater management plan shall be referred for comments to all other interested agencies including but not limited to Iowa Department of Natural Resources (IDNR), Iowa Department of Transportation (IDOT), and the Natural Resources Conservation Services (NRCS), and consideration shall be given to all comments received from such agencies in determining whether the stormwater management plan meets the requirements of this article.
- (e) No building, land use, or SWPPP permits shall be issued until a stormwater management plan or waiver, has been approved by the City.
- (f) Multiple submissions of the stormwater management plans shall include a summary of the differences in the new stormwater management plan from the stormwater management plan previously submitted.

Sec. 27-407. Requirements for Construction Inspection and Closing Out of Stormwater Management Plan.

- (a) Notice of Construction Commencement. The applicant shall notify the City of the commencement of construction. The City or the City's designated representative shall conduct regular inspections of the construction of the stormwater management facility.
- (b) The applicant shall be notified by the City in writing of the nature of any violations and the required corrective actions. No additional work shall proceed until all violations are corrected and all work previously completed has received approval by the City.
- (c) After construction is completed, the applicant shall submit "as built" drawings satisfactory to the City for each stormwater management facility. The drawings shall show the final design specifications for the facility and shall be certified by a professional engineer. A final inspection by the City shall be conducted prior to any release of the cash escrow or payment and performance bond required under Chapter 24 of this Code. Each applicant shall provide the City a copy of the Notice of Discontinuation for General Permit No. 2 required under "Article V, Construction Site Erosion and Sediment Control" of this chapter if applicable to the property.

Sec. 27-408. Requirements for the Maintenance and Repair of Stormwater Management Facilities.

- (a) The applicant shall be responsible for maintaining complete and accurate as-built drawings for the stormwater management facility for the life of the improvements.
- (b) Maintenance and Repair Agreement. Maintenance of and repairs to a stormwater management facility shall be ensured through the granting of a formal Maintenance and Repair Agreement that shall be subject to the approval of the City and which shall be recorded prior to the stormwater management plan approval and the issuance of a SWPPP permit for any development. As part of the agreement, a schedule shall be developed for maintenance that shall ensure the proper functioning of the facility. The agreement shall also include plans for inspections to ensure proper performance of the facility between scheduled cleanouts. In lieu of a Maintenance and Repair Agreement, the City may accept dedication of any existing or future Regional Stormwater Management Facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access of a sufficient area for inspection and regular maintenance by the City. The applicant shall execute a Maintenance and Repair Agreement that shall be binding on all subsequent owners of land served by the facility. The agreement shall provide for access to the facility and the land it serves for inspection by the City or the City's designee through the granting of an easement.
- (c) Requirements for Maintenance and Repair Agreement. All stormwater management facilities must undergo, at a minimum, an annual inspection to document necessary maintenance and repair and to ensure compliance with the requirements of this article and accomplishment of its purposes. Any necessary maintenance or repair shall be accomplished by the owner in a timely manner, as determined by City, and the frequency and level of inspection and maintenance may be increased as deemed necessary by the City in order to ensure proper functioning of the facilities.
- (d) Records of Installation, Maintenance, and Repair Activities. The property owner(s) responsible for the operation and maintenance of each stormwater management facility shall make records of the installation, maintenance, and repairs of the facility, and shall retain the records for at least 25 years or until the facility has been reconstructed. These records shall be made available to the City during inspection of the facility and shall be submitted to the City at other reasonable times upon request.
- (e) Failure to Maintain Stormwater Management Facilities. If a responsible party fails or refuses to meet the requirements of the Maintenance and Repair Agreement, or of any provision of this article, the City, after notice, may correct a violation by performing all necessary work to place the stormwater facility in proper working condition. If the stormwater facility is not a danger to public safety or public health, the responsible party shall be provided with reasonable notice to correct the violation. In the event that the stormwater facility becomes a danger to public safety or

public health, the City shall notify the party responsible for maintenance of the facility in writing that upon receipt of that notice, the responsible person shall have two (2) days to maintain and repair the facility in a manner that meets the requirements of this article. After proper notice, City may assess, jointly and severally, the owner(s) of the facility or the property owners or the parties responsible for maintenance under any applicable written agreement for the cost of repair work and any penalties; and the cost of the work shall be a lien on the facility, or shall be assessed to all benefiting properties as liens to be collected in the same manner as property taxes.

Sec. 27-409. Waivers.

- (a) Every applicant shall provide for stormwater management as required by this article, unless a written request to the City for a partial waiver of the stormwater management plan is granted pursuant to paragraph (b) of this section, or unless a written request to the City for a general waiver of the stormwater management plan is granted pursuant to paragraph (c) of this section.
- (b) PARTIAL WAIVER.
 - (1) A partial waiver of the stormwater management plan may be granted provided that at least one of the following conditions is established based on evidence satisfactory to the City; if the following conditions cannot be established, the application shall be denied:
 - a. The proposed development will not impair attainment of the objectives of this article; or
 - b. Alternative minimum requirements for on-site management of stormwater have been established in a stormwater management plan that has been approved by the City and that has been fully implemented; or
 - c. Provisions are made to manage stormwater by an off-site facility. The off-site facility shall be in place, shall be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be provided by on-site practices and there shall be a responsible party available to monitor the performance of and maintain the efficiency of the stormwater management facility in accordance with a written and recorded Maintenance and Repair Agreement.
 - (2) If the applicant successfully establishes at least one of the conditions for granting a partial waiver specified in paragraph (b)(1) of this section, the applicant must submit further evidence satisfactory to the City that the partial waiver will not result in any one or more of the following impacts to downstream waterways; if a partial waiver will result in any one or more of the following impacts to downstream waterways, the application must be denied:

- a. Deterioration of existing culverts, bridges, dams, and other structures; or
 - b. Degradation of biological functions or habitat; or
 - c. Accelerated streambank, streambed erosion, or siltation; or
 - d. Increased threat of flood damage to public health, life, or property.
- (c) GENERAL WAIVERS:
- (1) If the City finds that a general waiver is appropriate, the applicant shall execute a written agreement to accomplish one or more of the following mitigation measures selected by the City:
 - a. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reconstruction of native ecosystems of lands strategically located in the watershed consistent with the purposes of this article, of a sufficient quantity to enable the City to achieve the City's stormwater requirements.
 - b. The creation of one or more stormwater management facilities on previously developed properties, public or private, that currently lack stormwater management having a capacity to achieve City stormwater requirements.
 - c. Monetary contributions to fund stormwater management activities such as research and studies (to include but not limited to regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, monitoring of stormwater facilities, and stream corridor stabilization practices). The monetary contribution required shall be in accordance with a fee schedule established by the city council based on the estimated cost savings to the developer resulting from the waiver and the estimated future costs to the City to achieve City stormwater requirements. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.d. Dedication of land or granting of an easement by the applicant of a value equivalent to the cost to City of the construction of an off-site Regional Stormwater Management Facility sufficient to achieve City stormwater requirements. The applicant and City shall enter into the agreement prior to the approval of any final subdivision plat of the development, or if no approval of a subdivision plat is required, prior to the issuance of the building permit.
 - d. Payment of an assessment to a Regional Stormwater Management Facility constructed by the City, or

constructed by a property owner or property developer for which the city incurs any costs, the total cost of which has not been assessed against the benefited properties by the levying of special assessments. The assessment shall be paid for by the owners of benefited properties before the facility, or any part or parts thereof, is or are used. The city engineer shall report the total cost thereof to the city council. The city council shall then prorate the total cost thereof among the properties benefited thereby and shall adopt an ordinance setting forth charges against respective properties which use the Regional Stormwater Management Facility. Such ordinance shall only be adopted after notice published in accordance with the requirements of state law, and only after a public hearing thereon. The charges shall be paid prior to or at the time of minor or preliminary plat approval by the city, the charges to be equal in value to the total cost, including the construction costs, incurred by the city in connection with the advance installation of the facility required for the development of the property.

Sec. 27-410. Enforcement and Penalties.

- (a) Violation of any provision of this article may be enforced by issuance of a stop work order by the enforcement officer or by civil action, administrative or judicial, including but not limited to an action for injunctive relief. A stop work order shall specify the violation(s) and shall remain in effect until all deficient conditions have been remedied.
- (b) Violation of any provision of this article constitutes a municipal infraction under this code, punishable as provided in the following schedule of civil penalties:
 - (1) *First offense*: \$250.00;
 - (2) *Second offense*: \$500.00;
 - (3) *Third and subsequent offenses*: \$1,000.00.

Each day that a municipal infraction occurs or is permitted to exist constitutes a separate offense. Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief from the court in the same action. Such alternative relief may include but is not limited to abatement or injunctive relief.

- (c) In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this article shall be considered a threat to public health, safety, and welfare, and is declared and deemed to be a nuisance. This nuisance may be summarily abated or corrected by the City at the violator's expense.
- (d) In addition to any fine or penalty, the City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this article, including necessary monitoring expenses.

- (e) The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the enforcement officer to seek cumulative remedies if deemed necessary. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the city attorney.

Sec. 27-411. Appeal.

- (a) Administrative decisions by city staff and enforcement actions of the enforcement officer may be appealed by the applicant to the city council pursuant to the following rules:
 - (1) The appeal must be filed in writing with the city clerk within five business days of the date of the decision or enforcement action.
 - (2) The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.
 - (3) The enforcement officer shall, at the hearing, or at any time before the hearing, specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.
 - (4) The city clerk shall notify the applicant and the enforcement officer by ordinary mail, and shall give public notice in accordance with Iowa Code Chapter 21 of the date, time and place for the regular or special meeting of the city council, or its designated committee, at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four nor more than 20 days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Iowa Code Chapter 17A. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the city attorney or by an attorney designated by the city council at city expense.
- (b) The decision of the city council, or its designated committee, shall be rendered in writing and may be appealed to the Iowa district court as provided by Iowa law.

Sec. 27-412. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice from the City, or, in the event of an appeal, within five business days of the decision of the city council or its designated committee upholding the decision of the enforcement officer, the enforcement officer may enter upon the subject property and take such measures as are, reasonably necessary to abate the violation and/or restore the property to a condition that is in compliance with the provisions of this article. It shall be unlawful for any person to refuse to allow the city, or the city's designated representative, to enter upon any premises in the city for the purposes of investigating, correcting or abating violations, or otherwise enforcing the provisions of this article.

Sec. 27-413. Cost of abatement of the violation.

After abatement of the violation, the applicant shall be notified of the cost of abatement, including administrative costs. The applicant may, within 30 days following notice of abatement costs, file a written protest objecting to the amount of the assessment. If the amount due is not paid within a timely manner as determined by the enforcement officer, the assessment shall constitute a lien on the property pursuant to Iowa Code Section 384.84. Any abatement costs not paid in full within 30 days of final determination shall bear interest at the legal rate of interest provided by law, until paid in full. Written notice of intent to certify a lien shall be sent to the applicant by ordinary mail not less than 30 days prior to the certification of the lien to the county treasurer. After compliance with the foregoing provisions, the city clerk shall certify for taxation purposes and for purposes of the establishment of the property lien to the county treasurer all delinquent abatement costs, together with an administrative expense of \$5.00.

Sec. 27-414. Injunctive relief.

It shall be unlawful for any person to violate, or fail to comply with, any of the provisions of this article. If a person has violated, or continues to violate, the provisions of this article, the enforcement officer may petition a court for a preliminary or permanent injunction restraining the person from any violation of the provisions of this article, or compelling the person to perform abatement or remediation of any such violations.

Sec. 27-415. Compensatory action.

In lieu of or in addition to enforcement proceedings, penalties, and remedies authorized by this article, the enforcement officer may impose upon a violator alternative compensatory actions. These actions may include, but are not limited to, storm drain labeling, attendance at stormwater pollution prevention compliance workshops, the cleanup of local waterways or creeks, or any other activity determined appropriate by the enforcement officer. The failure of any person to complete any such alternative compensatory actions imposed by the enforcement officer shall constitute a violation of this article.

Sec. 27-416. Severability.

The provisions of this article are hereby declared to be severable. If any section, provision, clause, sentence, paragraph or part of this article or the application thereof to any person, establishment, or circumstance shall be held invalid or unconstitutional, such adjudication shall not affect the other provisions or applications of this article.

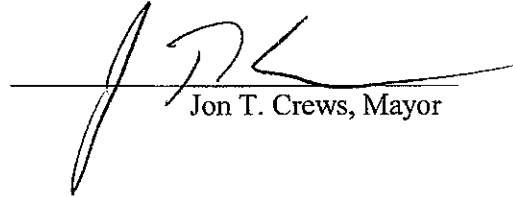
INTRODUCED: _____ August 23, 2010 _____

PASSED 1ST CONSIDERATION: _____ August 23, 2010 _____

PASSED 2ND CONSIDERATION: _____ September 13, 2010 _____

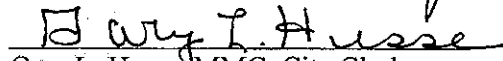
PASSED 3RD CONSIDERATION: _____ September 27, 2010 _____

ADOPTED: _____ September 27, 2010 _____



Jon T. Crews, Mayor

ATTEST:



Gary L. Hesse, MMC, City Clerk