

“POST CONSTRUCTION STORM WATER MANAGEMENT” ESTABLISHING THE RULES AND REGULATIONS FOR POST CONSTRUCTION STORM WATER MANAGEMENT CONCERNING PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF WAUKEE, IOWA

204D.1 PURPOSE

1. 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 storm water from a Municipal Separate Storm Sewer System (MS4). 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.
2. As a condition of the City’s MS4 Permit, the City is obliged to develop, implement, and enforce a program to address storm water runoff from new construction and reconstruction projects for which State NPDES General Permit #2 storm water permit coverage is required by adopting a POST-CONSTRUCTION STORM WATER MANAGEMENT ORDINANCE designed:
 - (a) To require water quality and quantity components be considered in the design of new construction and implemented when practical; and
 - (b) To promote the use of storm water detention and retention, grass swales, buffer strips, and proper operation and maintenance of these facilities; and
 - (c) To allow use of bio-retention swales and riparian buffers where practical and the soils and topography are suitable to ensure such measures will be effective in accomplishing the purpose of this ordinance; and
 - (d) To prohibit construction activities from commencing until the plans for post-construction runoff controls have been submitted to the City; and
 - (e) To allow the City to have the ability to access private property for the purpose of enforcement procedures to promote compliance with the State NPDES General Permits #2 which require post-construction compliance by Applicants (“Applicants”).
3. No state or federal funds have been made available to assist the City with inspections, monitoring and/or enforcing the Program. Accordingly, the City shall fund its inspection, monitoring and enforcement responsibilities entirely by fees imposed on the owners of properties which are made subject to the Program by virtue of state and federal law, and/or other sources of funding established by a separate ordinance.

4. Terms used in this ordinance shall have the meanings specified as follows:
 - (a) “Applicant” means any person, firm, or entity applying for a permit to develop, grade, or construct within the corporate limits of the City.
 - (b) The definitions provided in section 204A.1 of the Waukeem Municipal Code are incorporated herein by this reference.

204D.2 PROCEDURE FOR POST-CONSTRUCTION

1. Each Applicant who is required to have coverage under General Permit No. 2 for a site shall install post-construction storm water management facilities as set forth herein and as approved by the City during site plan, platting, or construction plans.
2. Each Applicant or its successor person(s) or entity shall be responsible for maintaining all storm water management facilities as approved by the City.
3. For sites equal to or greater than one acre, each Applicant must provide to the City as-built plans detailing dimensions and elevations as well as a certification that storm water management facilities were built as part of the approved development that includes the site. For sites less than one acre that are part of a common plan of development and for which the Applicant establishes that storm water management facilities were or will be built to address all properties (either collectively or individually) within the development, each Applicant must provide to the City a copy of the Notice of Discontinuation for General Permit No. 2 applicable to the property.
4. Each Applicant must include in their site design those storm water management facilities that will convey drainage through the property to one or more detention and/or treatment areas such that no development shall cause downstream property owners, water courses, channels, or conduits to receive storm water runoff from the proposed development site at a peak flow rate greater than that allowed by the policy or standard in effect at the time of approval of the development unless such requirements are waived by the City. Nothing contained herein shall prohibit the City from changing the policies or standards in the future, nor from requiring the site to comply with the new requirements.
5. Each Applicant shall comply with all other applicable City, state or federal permit requirements as they apply to the City or to the property.
6. At the discretion of the City, the Applicant may satisfy the post-construction storm water management requirements by ensuring the conveyance of the storm water discharge from the property to a regional detention facility. For purposes of this ordinance, a “regional detention facility” shall be wet or dry detention basins,

which are designed to accept storm water runoff from two or more sites that are required to obtain a state NPDES General Permit No. 2 and that otherwise complies with all city, state or federal permit requirements as they apply to storm water management requirements for those sites.

204D.3 MAINTENANCE AND REPAIR OF STORM WATER FACILITIES

1. Prior to the issuance of any permit that has a storm water management facility as one of the requirements of the permit, the Applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the storm water management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the City, or its contractor or agent, to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded by the City in the land records.
2. Maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded into the land record at the time of final plat approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant shall also include plans for periodic inspections by the Applicant, owner, or assigns to ensure proper performance of the facility.
3. The City shall be permitted to enter and inspect any property subject to regulation under this section as often as is necessary to document maintenance and repair needs and determine compliance with the requirements of this ordinance. If a Responsible Party owning, controlling or possessing a property has security measures that require identification and clearance before entry to its property, such Responsible Party shall make the necessary arrangements to allow access by the City. By way of specification but not limitation:
 - (a) A Responsible Party shall allow the City ready access to all parts of the property for purposes of inspection, examination, and copying of records related to compliance with this ordinance.
 - (b) Any temporary or permanent obstruction that obstructs the safe and easy access to property to be inspected and shall be promptly removed by the Responsible Party at the written or oral order of the City and shall not be replaced. The costs of clearing such access shall be borne by the Responsible Party.
 - (c) An unreasonable delay in allowing the City access to a property is a violation of this chapter.

4. Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation and of all maintenance and repairs, and shall retain said records. Copies of the as-built plans and records of all self inspections, maintenance, and repairs shall be kept on-site and shall be made available to the City during inspection of the facility and at other reasonable times upon request.
5. In the event that a storm water management facility is found by the City to be non-compliant with the plans as submitted and approved or is found to be in need of maintenance, the responsible party will be notified in writing of such deficiencies. Upon receipt of such notice, the responsible party shall have fifteen (15) days to correct such deficiencies. After proper notice, and if the responsible party fails to make the repairs or perform the maintenance, the City may have such work performed and assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the City. In addition, easements and covenants recorded upon the applicants property shall provide mechanisms for the establishment of a lien by the City for any and all costs incurred by the City pursuant to this chapter to aid in the efficient and cost effective collection of sums so expended, including, but not limited to, attorneys fees associated with collection.

204D.4 ENFORCEMENT BY LEGAL OR ADMINISTRATIVE ACTION

1. A violation of this chapter is a simple misdemeanor. Each Day that a violation continues to exist shall constitute a separate offence.
2. A violation of any provision of this ordinance may also be enforced as a municipal infraction within the meaning of Code of Iowa 364.22, pursuant to the City's municipal infraction ordinance and in addition to the imposition of the Civil penalties may include appropriate injunctive relief, an order for abatement and the pursuit of a personal judgment for the costs of abatement including, but not limited to, attorney's fees associated with the City's pursuit of the matter as a municipal infraction, together with any and all other relief authorized under applicable Iowa Law.
3. The penalty for each violation of this chapter shall not exceed the maximum penalty set forth in section 103.4 of the Waukee Municipal Code for each violation.
4. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

Enacted in entirety September 10, 2007 – Ordinance 2611