

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL (COSESCO)

§204B.01 Purpose.

- 1.1. 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) (MS4 Permit). The City of Waukee 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.
- 1.2. The Program requires certain individuals engaged in construction activities (applicant or applicants) to submit an application to the IDNR for a State NPDES General Permit #2. Notwithstanding any provision of this ordinance, every applicant bears final and complete responsibility for compliance with a State NPDES General Permit #2 and any other requirement of state or federal law or administrative rule.
- 1.3. As a condition of the City's MS4 Permit, the City will perform periodic monitoring and primary enforcement of the Program by adopting a CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ORDINANCE (COSESCO) designed to achieve the following objectives:
 - 1.3.1. Any person, firm, sole proprietorship, partnership, corporation, state agency or political subdivision ("applicant") required by law or administrative rule to apply to the IDNR for a State NPDES General Permit #2 shall be subject to the terms of the COSESCO; and
 - 1.3.2. The City will perform periodic monitoring and initiate enforcement procedures when appropriate to promote applicants' compliance with State NPDES General Permits #2.
- 1.4. No state or federal funds have been made available to assist the City with monitoring and/or enforcing the Program. Accordingly, the City shall fund its 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.
- 1.5. Terms used in this ordinance shall have the meanings specified in the Program.

§204B.02 Procedure for COSESCO Compliance.

- 2.1 Any person, firm, sole proprietorship, partnership, corporation, state agency or political subdivision ("applicant") required by law or administrative rule to apply to the IDNR for a State NPDES General Permit #2 are subject to the terms of this ordinance.

- 2.2 Prior to the issuance of any permits by the City for construction activities on the site, an applicant shall:
 - 2.2.1 Submit to the City a copy of the site plan prepared by the applicant to meet the requirements of the state NPDES General Permit #2. The site plan shall show best management practices (BMP) control measures and a Storm Water Pollution Prevention Plan (SWPPP) applicable to the site;
 - 2.2.2 Submit a copy of the applicant's authorizations issued pursuant to applicant's State NPDES General Permit No. 2, including a copy of said permit issued by the IDNR for this site.
- 2.3 Every SWPPP submitted to the City shall:
 - 2.3.1 Comply with all existing requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES General Permit #2; and
 - 2.3.2 If the applicant is required by law to file a Joint Application Form PROTECTING IOWA WATERS, IOWA DEPARTMENT OF NATURAL RESOURCES AND U.S. ARMY CORPS OF ENGINEERS, comply with all mandatory minimum requirements pertaining to such applicants; and
 - 2.3.3 Comply with all other applicable state or federal permit requirements in existence at the time of application including, but not limited to, waste at construction sites that may cause adverse impact to water quality such as building materials, concrete truck washout, chemicals, solid waste and sanitary waste.
- 2.4 All construction sites shall be furnished with a stabilized construction site entrance to handle the type and frequency of the traffic entering and exiting the site or make use of some other method designed to prevent off site tracking. Any soils tracked off site shall be cleaned up by the applicant at the end of each day or before sediments enter the public storm sewer or waters of the state. Any soils entering public storm sewer or waters of the state will be considered a violation of this ordinance.

§204B.03 **Site Visit Procedures for COESCO.**

- 3.1 All site visits under this ordinance shall be conducted by a representative of the City hereinafter referred to as the “enforcement officer.”
- 3.2 Any applicant that is subject to the terms of COESCO shall allow the City or an authorized representative of the City, to enter upon applicant’s private property for site visit purposes. Any representative of the City shall present credentials if so required at the time of entry.
- 3.3 The City may conduct site visits at any time.

- 3.3.1 In any calendar year, the City will visit the site a minimum of twice per year and upon the receipt of a complaint. The City will charge the applicant the amount as established by Resolution of the City Council for each such site visit until such time as the NPDES General Permit No. 2 is terminated by the IDNR;
- 3.3.2 In addition to the site visits set out in 3.3.1 the City may conduct additional site visits at the City's own expense.
- 3.4 In the event a site visit identifies an area or incident of non-compliance, the City may, at its discretion, provide applicant with a list of deficiencies that identifies the area or incident of non-compliance. In the event an enforcement action is taken, a list of deficiencies must first be provided to applicant. If a list of deficiencies is provided, the applicant shall immediately commence corrective action and shall complete corrective action within forty eight (48) hours of receiving the list. For good cause shown, the City may extend the deadline for completing corrective action, at the City's sole discretion. Failure to take corrective action in a timely manner shall constitute a violation of this ordinance.
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- 3.5 The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for non-compliant conditions undetected by the site visit.

§204B.04 Monitoring Procedures for COSESCO.

- 4.1 It shall be the applicant's duty to monitor the site daily to assure compliance with the SWPPP and General Permit No. 2.
- 4.2 It shall be applicant's duty to notify the City of any changes, alterations, transfers of coverage or sales of any property in the same manner, to the same extent and at the same time as such notification is provided to the Iowa Department of Natural Resources pursuant to the requirements of the state NPDES General Permit No. 2. Transferees must agree to the transfer in writing and must agree to fulfill all obligations of the SWPPP and the State General Permit No. 2. Absent such written confirmation of transfer of obligations, the applicant remains responsible for compliance on any lot that has been sold.
- 4.3 It shall be the applicant's duty to notify the City when all conditions of the NPDES General Permit No. 2 have been satisfied and the permit has been terminated.

§204B.05 Enforcement by Legal or Administrative Action.

- 5.1 Violation of any provision of this ordinance may be enforced by legal (civil) action including an action for injunctive relief.

- 5.2 Violation of any provision of this ordinance may also be enforced as a municipal infraction within the meaning of §364.22 of the Iowa Code, pursuant to the City's municipal infraction ordinance.
- 5.3 Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

§204B.06 **Enforcement by Order to Terminate Further Activities.**

- 6.1 As an alternative to enforcement by legal or administrative action, an enforcement officer may issue an order to terminate further activities at the site under the following conditions:
 - 6.1.1 The order to terminate may be issued only for failure to implement or maintain pollution control BMPs;
- 6.2 Prior to commencing further activity at the site, the applicant shall establish correction of the deficiency by providing to the office of the enforcement officer, a written statement, signed under oath, that the deficiency has been corrected with a description, including photographs when appropriate, of the action taken to correct the deficiency.
- 6.3 If the deficiency is not corrected, the City may commence a legal or administrative action against the applicant as set forth in Section 5 above.

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