

**CITY OF STORM LAKE
STORM WATER ADVISORY BOARD
CITY HALL COUNCIL CHAMBERS
MAY 30, 2017
5:00 PM**



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

AGENDA

1. **2017 May Storm Water Advisory Public Works Report**
2. **Reports of Illicit Discharges**
3. **Commercial Project Update**
4. **Update On Storm Water Training**
5. **Review And Recommend Approval Of Storm Lake's Construction Erosion And Sediment Control Ordinance and Worksheet.**
6. **ADJOURN**

Meeting Protocol

If you wish to speak today, please:

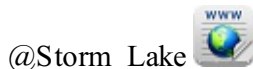
1. To speak on an agenda item please approach the podium when that agenda item is called and upon recognition by the chair identify yourself by stating your name and address.
2. Please keep your remarks to three (3) minutes or less.
3. If you require accommodation for this meeting including but not limited to translation services, hearing assistance, or accessibility please contact the City Clerk at least four (4) hours prior to the start of the meeting.



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Staff Summary

5/30/2017

Agenda Item # 1.



City of Storm Lake
PO Box 1086
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REPORT TO: Storm Water Advisory Board

FROM: Jason Etnyre, Public Works Director

SUBJECT: **2017 May Storm Water Advisory Public Works Report**

BACKGROUND: There are multiple projects underway at this time. **Erie Street** still is in need of plantings to be finalized and some paver resetting and cleaning prior to acceptance. **13th Street Extension** is underway with sewer services being finalized. Due to soil conditions, staff and Council took action to tile under the roadbed and to discharge all subsurface water to the pond that was constructed as part of the North Central project. **North Central Phase 1** is close to being 100% done with the finalization of the rain gardens at the intersection of Oneida and E 12th. The facilities have had a limestone retaining wall installed and are awaiting finalization of soils prior to planting. **North Central Phase 2 (Seneca & Spooner)** is underway with the first phase of this project being the south half of Seneca. **Flindt Drive Water Main** is progressing with the boring of the new main being completed. Richland will be closed and the pavement on the east side of the intersection will be replaced soon. **Richland Street** has been let by the DOT and will be a complete reconstruction from Flindt Drive to Industry Street. Sub-drain and paving will be all new construction.

MS4 PERMIT RELATIONSHIP:

FISCAL IMPACT: none

RECOMMENDATION: Staff recommends that the Board approve the 2017 May Public Works update

Staff Summary

5/30/2017

Agenda Item # 2.



City of Storm Lake
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REPORT TO: Storm Water Advisory Board

FROM: Scott Olesen, Building Official

SUBJECT: **Reports of Illicit Discharges**

BACKGROUND: The City responded to five reports of illicit discharges since the last report to the Storm Water Advisory Board.

January 30, 2017: Public Works Director Jason Etnyre received a complaint regarding silty water running out of Tyson Fresh Meats (Pork division) parking lot onto Skewis Street from a citizen at approximately 1:30 pm. Jason Etnyre immediately contacted Julie Sievers of the Iowa DNR.

Jason Etnyre and Scott Olesen dispatched to the area and found that storm water had ran onto Skewis and ended up entering the storm sewer system. Mr. Etnyre checked the basin in Radio Park and the storm water was running through this and into the Lake at the outfall on the south side of East Lakeshore Drive. Snow melt water was running off of the truck parking area on the south east side of the Tyson property and down Skewis.

Subsequent information provided to the Iowa DNR indicates that as a part of renovation the trailer parking area on the south east part of the lot, Tyson had removed a section of the road at the south end of street and this caused a change in the drainage pattern. The snow and ice melt ran off in a concentrated flow that was not previously experienced since the water used to run to the east and into a Tyson sanitary sewer intake..

Tyson Fresh Meats, Inc. was working on a design to correct the situation and will report back to the Iowa DNR when a design is complete.

Tyson Fresh Meats, Inc. was issued a municipal infraction for an illicit discharge.

March 29, 2017: Bob Swanson received a complaint regarding silty water entering the Lake. It was determined that snow melt water was coming off of the Tyson site onto Skewis. A rock check installed earlier had developed a gap and the electric pump which was installed to help redirect water wasn't working, Tyson maintenance staff was already correcting the situation when Mr. Swanson made contact. The maintenance staff subsequently installed a permanent discharge line on their electric pump and corrected the rock check. At this time they have submitted their proposal for a permanent correction to the Iowa DNR which has been accepted. No fine was issued since they have made efforts to comply and responded swiftly to the issue.

May 12, 2017: Scott Olesen received a report about a directional boring machine setting up near the under pass on Flindt Drive without inlet protection. After stopping by the site and speaking with the Contractor, Perrin Directional Boring, it was determined that there was no illicit discharge at the time. The Contractor had already changed to straight water for the drilling fluid and agreed to install inlet protection so no fine was issued.

May 12, 2017: Jason Etnyre was notified that the staff at Kings Pointe were pumping water from the outdoor pool into the Lake. Jason responded to the site and notified Julie Sievers. Upon arrival, the pumps were shut off and the discharge was re-directed to the sanitary sewer system. Jason spoke with the maintenance staff about the correct procedure for this. After consulting with the DNR staff, no fine was issued due to the limited amount of water that had been discharged.

May 22, 2017: Jason Etnyre received a report of a fuel spill near Seneca and 10th Streets. Hulstein Excavating was unloading a backhoe and the onsite Engineer noticed a leak in the fuel line of the diesel pickup. Ed Bredvick from the Public Works Department was dispatched with floor dry and the spill was cleaned up immediately. The diesel was stopped more than 50 feet from the nearest intake and the spill stayed in the gutter. The DNR was contacted and a fine was not issued since the spill was contained and cleaned up.

MS4 PERMIT RELATIONSHIP: Part II-C-1

FISCAL IMPACT: Cost of cleanup to be reimbursed by the owners and/or contractors.

RECOMMENDATION: Review incident and provide input to staff.

Staff Summary

5/30/2017

Agenda Item # 3.



City of Storm Lake
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REPORT TO: Storm Water Advisory Board

FROM: Scott Olesen, Building Official

SUBJECT: **Commercial Project Update**

BACKGROUND:

BVRMC: The parking lot to the west of the existing parking on Fifth Street is paved, but they will still need to plant these areas and finish up their post-construction controls.

Dollar Tree: The landscaping has been planted on this site and has begun vegetating this spring so that they can file for a notice of discontinuance. Dollar Tree and Shoe Sensation have opened up. There has been some interest expressed in the unfinished north part of the building by two additional tenants.

Methodist Manor: The site has resumed fast paced construction this spring. They have poured some of the concrete floors on the upper levels and should finish up a small area of foundation that will tie into the existing building, depending on the weather. They should be enclosed this fall.

Tyson Pork: The new parking area on the east side of Russell Street is poured, and they have finished the landscaping and vegetating the storm water controls this spring. The first phase of the chiller addition has the walls and floors completed. The walls and floors of the second phase are nearly complete. They will work on the new trailer parking area on the south west end of Russell Street after they have completed the rezoning process.

1519 East Lakeshore Drive: The existing buildings have been demolished. The proposed use will be for a outdoor furniture and home furnishings store.

Farm Credit Services: This is a fairly new building and they are planning an addition to the north east portion of the building. When the building was originally built it already had some post construction storm water controls in place before they were required by our Ordinance. The plans have been approved for this site.

MS4 PERMIT RELATIONSHIP: Part II-B-6, Part-II-E

FISCAL IMPACT: Costs associated with quarterly inspections and SWPPP review's.

RECOMMENDATION: Review the staff summary and provide input to staff on the various projects.

Staff Summary

5/30/2017

Agenda Item # 4.



City of Storm Lake
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REPORT TO: Storm Water Advisory Board

FROM: Scott Olesen, Building Official

SUBJECT: **Update On Storm Water Training**

BACKGROUND: On May, 25th, 2017 Pat Sauer provided our annual storm water training to our City Staff that are involved in soil disturbing activities, namely, the Public Works, Water, and Wastewater Departments.

Pat covered the requirements for our MS4 permit and gave the Departments some suggestions on record keeping and some new products to be used for wet concrete cutting.

Pat also provided training for contractors on our MS4, GP#2, and the inspection and record keeping process.

MS4 PERMIT RELATIONSHIP: Public outreach and Staff training

FISCAL IMPACT: Costs associated with Pat Sauer's expenses.

RECOMMENDATION: Review the staff summary and provide input to staff.

Staff Summary

5/30/2017

Agenda Item # 5.



City of Storm Lake
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REPORT TO: Storm Water Advisory Board

FROM: Keri Navratil, Assistant City Manager

SUBJECT: **Review And Recommend Approval Of Storm Lake's Construction Erosion And Sediment Control Ordinance and Worksheet.**

BACKGROUND: During a recent Municipal Separate Storm Sewer Permit (MS4) permit assistance visit by the IDNR, it was noted that the City does not have a Construction Erosion and Sediment Control Ordinance and program. To be considered in compliance with the MS4 permit, the City must ensure that a program is in place to control erosion from small site construction and/or site soil disturbance. This applies for the land disturbing activity associated with small disturbances that would not fall into the City requirement for Storm Water Management Best Management Practices.


Jay Michels will make the presentation and answer questions.

MS4 PERMIT RELATIONSHIP: This is a requirement of the City's MS4 permit.

FISCAL IMPACT: Significant if a program is not implemented that meets the MS4 requirements.

RECOMMENDATION: Hear the presentation and ask questions, Make Recommendation to Council.

ATTACHMENTS:

Description	Type
 Draft Ordinance	Backup Material

CHAPTER 160

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

160.01 Findings

160.02 Purpose

160.03 Applicability

160.04 Application Procedure

160.05 Inspection Procedures

160.06 Monitoring Procedures

160.07 Enforcement

160.08 Failure to Comply

160.09 Appeal

160.10 Financial Securities

160.11 Right of Entry

160.12 Definitions

160.01 FINDINGS.

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 certain individuals engaged in construction activities ("applicants") submit an application to the IDNR for a State NPDES General Permit #2. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with a State NPDES General Permit #2 and a City COSESCO Permit and any other requirement of State or Federal law or administrative rule.
2. The City is obliged to undertake responsibility for administration and enforcement of the Program by adopting a CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ("COSESCO") ordinance designed to achieve the following objectives:
 - A. Any applicant required by law or administrative rule to apply to the IDNR for a State NPDES General Permit #2 shall also be required to obtain from the City a COSESCO permit ("City COSESCO Permit") in addition to and not in lieu of the State NPDES General Permit #2; and
 - B. The City shall have responsibility for inspection, monitoring and enforcement procedures to promote applicants' compliance with State NPDES General Permits #2 and City COSESCO Permits.

3. 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 application, 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 chapter shall have the meanings specified in the Program.

160.02 PURPOSE

The general purpose of this ordinance is to establish regulatory requirements for land development and land disturbing activities aimed at minimizing the threats to public health, safety, public and private property and natural resources within the community from construction site erosion. Specific purposes are to establish performance standards that will provide a single, consistent set of performance standards that apply to all developments and will protect public and private property and receiving waters from damage resulting from erosion and sediment in stormwater runoff.

160.03 APPLICABILITY

1. All persons required by law or administrative rule to obtain a State NPDES General Permit #2 from the IDNR are required to obtain a City COSESCO Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP).
2. All persons are required to obtain a City COSESCO Permit and prepare an Erosion and Sediment Control Plan (ESC) if proposing a land disturbance activity that will:
 - A. Disturb a total land surface area of between 3,000 square feet and one acre, or
 - B. Excavate and/or fill a volume in excess of 50 cubic yards of material, or
 - C. Lay, repair, replace, or enlarge an underground utility, pipe or other facility, or disturb a road ditch, grass swale or other open channel for a distance of 300 feet or more.

160.04 APPLICATION PROCEDURE.

1. The applicant shall request a pre-application meeting which will be facilitated by the City between the applicant, City staff, and staff of partner agencies as applicable. The meeting shall be mandatory prior to submission of a permit application. The purposes of the meeting are: to understand the general parameters of the proposed project; and to convey the requirements of meeting the provisions of this and other applicable ordinances.
2. The City shall make a determination regarding the completeness of a City COSESCO Permit application within ten (10) business days of the receipt of the application and notify the applicant in writing if the application is not complete including the reasons the application was deemed incomplete.
3. The applicant shall not commence any construction activity subject to this ordinance until a City COSESCO Permit has been authorized by the City. A complete review of the permit application shall be done within fifteen (15) business days of the receipt of a complete permit application from the applicant. The City will work with the necessary state, county, and local

agencies to complete its review. The City shall review all information in the permit application including proposed stormwater practices, hydrologic models, and design methodologies and certify compliance with this ordinance. Applications for City COSESCO Permits shall be made on forms approved by the City which may be obtained from the office of the City Clerk.

4. An applicant for a City COSESCO Permit shall pay fees as follows:
 - A. An application fee at the time of application in the amount of \$0.00.
 - B. For each inspection required by this chapter, the applicant shall pay an inspection fee in the amount of \$0.00.
 - C. Failure of the applicant to pay an inspection fee within thirty (30) days of billing shall constitute a violation of this chapter.
 - D. The applicant will also be responsible for any outside consultant fees incurred by the City in enforcing this chapter.
5. An applicant in possession of a State NPDES General Permit #2 issued by the IDNR shall immediately submit to the City full copies of the materials described below as a basis for the City to determine whether to issue a City COSESCO Permit:
 - A. Applicant's plans, specifications, and supporting materials previously submitted to the IDNR in support of applicant's application for the State NPDES General Permit #2;
 - B. Applicant's authorizations issued pursuant to applicant's State NPDES General Permit #2; and
 - C. A Stormwater Pollution Prevention Plan ("SWPPP") prepared in accordance with this chapter.
6. Every SWPPP submitted to the City in support of an application for a City COSESCO Permit shall:
 - A. Comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES General Permit #2;
 - B. 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 applications;
 - C. Comply with all other applicable State or Federal permit requirements in existence at the time of application;
 - D. Be prepared by a licensed professional engineer or landscape architect or a professional in erosion and sediment control credentialed in a manner acceptable to the City; and

- E. Include within the SWPPP a signed and dated certification by the NPDES General Permit #2 permit holder that the SWPPP complies with all requirements of this chapter and the applicant's NPDES General Permit #2.
7. In addition to the SWPPP requirements stated in subsection 5 of this section, which constitute minimum mandatory requirements imposed by the Program, every SWPPP submitted to the City in support of an application for a City COSESCO Permit shall comply with Iowa Stormwater Management Manual standard design criteria, including but not limited to design, location, and phased implementation of effective, practicable stormwater pollution prevention measures, and shall also:
- A. Identify the nature of the construction activity and the potential for sediment and other pollutant discharges from the site.
 - B. Calculate the predicted erosion and estimated sediment yield for the construction site using the USDA Revised Universal Soil Loss Equation.
 - C. Limit total off-site annual aggregate sediment yield for exposed areas to an equivalent amount resulting from sheet and rill erosion equal to an annual, cumulative soil loss rate not to exceed the standard established from time to time by Soil and Water Conservation Districts; erosion rates can exceed soil loss limits as long as sediment yield does not exceed that expected from allowable erosion rates.
 - D. Assure that all stockpiles of soil or other materials subject to erosion by wind or water are covered, vegetated, or otherwise effectively protected from erosion and sedimentation in accordance with the amount of time the material will be on site and the manner of its proposed use; no stockpiling is allowed in the street.
 - E. Identify measures and procedures to reasonably minimize site soil compaction and provide soil quality restoration as specified.
 - F. Assure that all temporary erosion and sediment controls shall not be removed until the City has determined that the site has been permanently stabilized.
 - G. Assure that all disturbed sites be permanently stabilized with 70% perennial cover as measured by the USDA line transect method.
 - H. Identify methods to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened, and/or endangered species habitats, wildlife corridors, greenways, etc.
 - I. Provide for design and construction methods to stabilize steep or long continuous slopes.
 - J. Include measures to control the quantity and quality of stormwater leaving a site before, during, and after construction.
 - K. Provide for stabilization of all waterways and outlets.
 - L. Protect storm sewer infrastructure from sediment loading/plugging.
 - M. Specify precautions to be taken to contain sediment when working in or crossing water bodies.

- N. Assure stabilization of disturbed areas, including utility construction areas, as soon as possible.
- O. Protect outlying roads from sediment and mud from construction site activities, including tracking.
- P. Provide for disposal of collected sediment and floating debris.
- Q. Assure that, when working near water bodies, the specific practices itemized immediately below are utilized:

(1) During Construction.

- (a) All exposed soil areas with a slope of 3:1 or steeper, which have a continuous positive slope to a receiving water, should have temporary erosion protection or permanent cover within three days after the area is no longer actively being worked; all other slopes that have a continuous positive slope to a receiving water should have temporary erosion protection or permanent cover within seven days after the area is no longer actively being worked.
- (b) Temporary sediment basin requirements should be used for common drainage locations that serve an area with five or more acres disturbed at one time.

- (2) Buffer Zone. Provide for the maintenance at all times of an undisturbed buffer zone consisting of not less than 100 linear feet from a receiving water. Exceptions from this for areas such as water crossings or limited water access are allowed if the applicant fully documents in the SWPPP the circumstances and reasons that the buffer encroachment is necessary; all potential water quality, scenic and other environmental impacts of these exceptions should be minimized and documented in the SWPPP for the project.

8. Every Erosion and Sediment Control Plan (ESC) Submitted to the City in support of a City COSESCO Permit shall:

- A. Phase construction to minimize duration of exposed soil areas.
- B. Provide temporary and permanent erosion prevention, sediment control, stormwater runoff, and soil stabilization BMPs along with procedures to establish additional temporary BMPs as necessary for the site conditions during construction.
- C. Provide final stabilization of all exposed soil areas.
- D. Incorporate the following into the site design for erosion and sediment control:
 - (1) Minimize disturbance of natural soil cover and vegetation
 - (2) Minimize, in area and duration, exposed soil and unstable soil conditions
 - (3) Protect receiving water bodies, wetlands and storm sewer inlets

- (4) Protect adjacent properties from sediment deposition
- (5) Minimize off-site sediment transport on trucks and equipment
- (6) Minimize work in and adjacent to waterbodies and wetlands
- (7) Maintain stable slopes
- (8) Avoid steep slopes and the need for high cuts and fills
- (9) Minimize disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing
- (10) Minimize the compaction of site soils

E. Identify the:

- (1) Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project.
 - (2) 100-year flood elevation with and without the floodway, flood fringe, and/or general flood boundary, if available.
 - (3) Normal water level, high water level, and emergency overflow elevations for the site and all associated ponding systems.
 - (4) Locations of all stormwater management practices, infiltration areas, and areas not to be disturbed during construction.
 - (5) Location, size, and approximate grade of proposed public sewer and water mains.
 - (6) Construction phasing including a map and calculations as necessary of areas of grubbing, clearing, tree removal, grading, excavation, fill and other disturbance; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on site, delineated limits of disturbance, and final stabilization methods.
 - (7) Locations of planned temporary and permanent erosion prevention, sediment control, stormwater runoff, and soil stabilization BMPs.
9. Issuance by the City of a City COSESCO Permit shall be a condition precedent for the issuance of a City building permit or site plan approval.
10. For so long as a construction site is subject to a State NPDES General Permit #2 or a City COSESCO Permit, the applicant shall provide the City with current information, as follows:
- A. The name, address, and telephone number of the person on site designated by the owner who is knowledgeable and experienced in erosion and sediment control and who will oversee compliance with the State NPDES General Permit #2 and the City COSESCO Permit;

- B. The names, addresses, and telephone numbers of the contractors and/or subcontractors that will implement each erosion and sediment control measure identified in the SWPPP or ESC.

Applicant's failure to provide current information shall constitute a violation of this chapter.

11. Developers can transfer State NPDES General Permit #2 and the City COSESCO Permit responsibility to homebuilders, new lot owners, contractors, and subcontractors. Transferees must agree to the transfer in writing, must agree to fulfill all obligations of the SWPPP or ESC, the State NPDES General Permit #2 (if applicable), and the City COSESCO Permit. Absent such written confirmation of transfer of obligations, the developer remains responsible for compliance on any lot that has been sold. A developer shall notify the City of any application to the DNR for release of any property from a General Permit #2 pursuant to Iowa Administrative Code 567, 64.6(6) or any similar successor provision.
12. Before work under the permit is deemed complete, the permittee must submit as-builts and a maintenance plan demonstrating at the time of final stabilization that the stormwater facilities conform to design specifications.
13. Application for termination of a City COSESCO Permit shall be made by contacting the City Inspector.

160.05 INSPECTION PROCEDURES.

1. All inspections required under this chapter shall be conducted by the Public Works Director, City Engineer, City Inspector, a subcontractor credentialed in a manner satisfactory to the City, or other appropriate designee, hereinafter referred to as the "enforcement officer."
2. The City shall conduct inspections on a regular basis to ensure that both stormwater and erosion and sediment control measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. Mandatory inspections are required as follows:
 - A. Before any land disturbing activity begins;
 - B. At the time of footing inspections;
 - C. At the completion of the project; and
 - D. Prior to the release of financial securities.
3. Applicant shall notify the City prior to commencing land disturbing activity, at the time of footing inspections and when all measures required by applicant's SWPPP have been accomplished on-site, whereupon the City shall conduct an inspection for the purpose of determining compliance with this chapter, and shall within two (2) business days thereafter report to the applicant either that compliance appears to have been achieved, or that compliance has not been achieved, in which case the City shall provide a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within twenty-four (24) hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for taking corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter.

4. Construction shall not occur on the site at any time when the City has identified conditions of noncompliance.
5. Construction activities undertaken by an applicant prior to resolution of all discrepancies specified in the bill of particulars shall constitute a violation of this chapter.
6. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

160.06 MONITORING PROCEDURES.

1. Upon issuance of a City COSESCO Permit, an applicant has an absolute duty to monitor site conditions and to report to the enforcement officer any change of circumstances or site conditions which the applicant knows or should know pose a risk of stormwater discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2 and/or City COSESCO Permit.
 - A. Such report shall be made by the applicant to the enforcement officer immediately but in any event within twenty-four (24) hours of the change of circumstances or site conditions.
 - B. Failure to make a timely report shall constitute a violation of this chapter.
2. Any third party may also report to the City site conditions which the third party reasonably believes pose a risk of stormwater discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2, and/or City COSESCO Permit.
3. Upon receiving a report pursuant to the previous subsections, the enforcement officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 160.06 below.
4. Unless a report is made to the enforcement officer pursuant to the previous subsections, the enforcement officer may conduct unannounced inspections during the course of construction to monitor compliance with the State NPDES General Permit #2 and the City COSESCO Permit. If the inspection discloses any significant noncompliance, the enforcement officer shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within 24 hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 160.06 below.
5. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

160.07 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.
2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the Code of Iowa, pursuant to Chapter 4 of this Code of Ordinances.
3. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.
4. In cases where cooperation for inspections is withheld, construction stop work orders shall be issued by the City until stormwater and erosion and sediment control measures meet the requirements of this ordinance. An inspection must follow before work can resume.
5. If stormwater and/or erosion and sediment control management measures malfunction and breach the perimeter of the site, enter streets, other public areas, or a receiving water, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-way from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining permission. If in the discretion of the City, the applicant does not repair the damage caused by the stormwater runoff the City can complete the remedial work required and charge the cost to the applicant. If payment is not made within thirty days, payment will be made from the applicant's financial securities.
6. The City can take any combination of the following actions in the event of a failure by applicant to meet the terms of this ordinance:
 - A. Withhold inspections or issuance of certificates or approvals;
 - B. Revoke any permit issued by the City to the applicant;
 - C. Conduct remedial or corrective action on the development site or adjacent site affected by the failure;
 - D. Charge applicant for all costs associated with correcting the failure or remediating damage from the failure; If payment is not made within thirty days, payment will be made from the applicant's financial securities;
 - E. Bring other actions against the applicant to recover costs of remediation or meeting the terms of this ordinance; and
 - F. Any person, firm or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. Each day that a separate violation exists shall constitute a separate offense.

160.08 FAILURE TO COMPLY. Failure to comply with this chapter constitutes a municipal infraction. The property owner is responsible to ensure that this chapter is observed.

160.09 APPEAL. 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 (5) business days 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 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 registered mail, and shall give public notice, in accordance with Chapter 21 of the Code of Iowa, of the date, time, and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (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 Chapter 17A, Code of Iowa. 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.

The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.

160.10 FINANCIAL SECURITIES

1. The City shall require financial securities from the applicant in an amount sufficient to cover the entirety of the estimated costs of permitted and remedial work based on the final design as established in a set finance security schedule determine by the City.
2. Financial securities shall not be released until all permitted and remedial work is completed
3. Financial securities may be used by the City to complete work not completed by the applicant
4. The form of the financial securities shall be one or a combination of the following to be determine by the City:
 - A. Cash Deposit – The first \$5000 of the financial security for erosion and sediment control shall be by cash deposit to the City. The cash will be held by the City in a separate account.
 - B. Securing Deposit – Deposit, either with the City, a responsible escrow agent or trust company and the option of the City, either:

- (1) An irrevocable letter of credit or negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by state and federal government wherein said financial institution pledges funds are on deposit and guaranteed for payment;
 - (2) Cash in U.S. Currency; or
 - (3) Other forms of securities (e.g. disbursing agreement) as approved by the City
5. The security shall save the City free and harmless from all suits or claims for damages resulting from the negligent grading removal, placement or storage of rock, sand, gravel, soil or other like material within the City.
6. If at any time during the course of the work the amount falls below 50% of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below 50% of the required amount the City may:
 - A. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 - B. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
7. The City may access financial security for remediation actions if any of the conditions listed below exist. The City shall use the security to finance remedial work undertaken by the City, or a private contractor under contract to the City, to reimburse the City for all direct costs incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.
 - A. Abandonment – The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
 - B. Failure to Implement the SWPPP or ESC Plan – The applicant fails to conform to the grading plan and/or the SWPPP as approved by the City.
 - C. Failure to Perform – The techniques utilized under the SWPPP or ESC Plan fail within one year of installation.
 - D. Failure to Reimburse the City – The applicant fails to reimburse the City for corrective action taken.
8. When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by one-third. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security to two-thirds of the initial amount. This reduction in financial security will be determined by the City
9. The security deposited with the City for faithful performance of the SWPPP or ESC Plan and any related remedial work shall be released one full year after the completion of the

installation of all stormwater pollution control measures as shown on the SWPPP or ESC Plan

160.11 RIGHT OF ENTRY The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter upon the construction site. The applicant shall allow the City and their authorized representative upon presentation of credentials to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys;
2. Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigation;
3. Examine and copy any books, papers, records or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit;
4. Inspect the stormwater pollution control measures;
5. Sample and monitor any items or activities pertaining to stormwater pollution control measures; and
6. Correct deficiencies in stormwater and erosion and sediment control measures

160.12 DEFINITIONS

1. "Applicant" means a property owner or agent of a property owner who has filed an application for a construction site erosion and sediment control permit.
2. "Developer" means a person who undertakes land disturbance activities.
3. "Development" means activity land disturbance activity on land previously vacant of buildings or largely free of previous land disturbance activity other than traditional agricultural activities; or on land where existing land use is high density commercial, industrial, institutional or multi-family residential (a.k.a. "redevelopment").
4. "Enforcement officer" means that person designated by the City having responsibility for administration and enforcement of this chapter.
5. "Land disturbance activity" means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
6. "Stormwater Pollution Prevention Plan" (SWPPP) means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
7. "Iowa Stormwater Management Manual" means the current Iowa Stormwater Management Manual publication, by whatever name, as amended from time to time by Iowa Department of Natural Resources in collaboration with The Center for Transportation Research at Iowa State University, that recommends Stormwater Management Guidelines and Uniform Sizing Criteria and BMPs designed to address said Guidelines.