

Ordinance No. 2006-1039

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CORALVILLE - 2001 (AS PREVIOUSLY AMENDED) BY ADDING AND INCORPORATING THE CONSTRUCTION SITE RUNOFF AND EROSION CONTROL ORDINANCE.

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF CORALVILLE, JOHNSON COUNTY, IOWA, AS FOLLOWS:

Section 1. Amendment. The Code of Ordinances of the City of Coralville (2001), as previously amended, is hereby amended by adding and incorporating the following new Chapter:

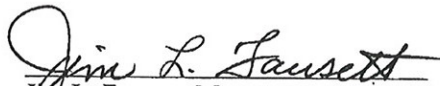
See Exhibit "A" attached hereto.

Section 2. Conflicts. All ordinances or parts of ordinances not specifically provided for and in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Adjudication. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date. This ordinance shall be in full force and effect after its passage, approval and publication as required by law.

PASSED AND ADOPTED this 11th day of April, 2006.


Jim L. Fausett, Mayor

ATTEST:

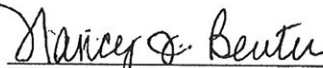

Nancy J. Beuter, City Clerk

Exhibit "A"

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ORDINANCE

SECTION 1. Short Title. This Chapter shall be known as the Construction Site Erosion and Sediment Control Ordinance.

SECTION 2. Purpose. It is the purpose of this Ordinance to:

- (a) Protect, maintain and enhance the environment of the City of Coralville and the public health, safety, and general welfare of the public by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water flows; and
- (b) Enable the City of Coralville to comply with its National Pollution Discharge Elimination System Permit (NPDES) and applicable statutes and regulations for storm water discharges.

SECTION 3. Findings.

- (a) The United States Environmental Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) permit program administered by the Iowa Department of Natural Resources (IDNR) requires that cities meeting certain demographic and environmental criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System (MS4) Permit. The City of Coralville is subject to the NPDES permit program and is required to obtain, and has in fact 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) The Program requires certain individuals engaged in construction activities to submit an application to the Department for a State NPDES General Permit No. 2. Notwithstanding any provision of this ordinance, every Applicant(s) bears final and complete responsibility for compliance with a State NPDES General Permit No. 2 and a City Construction Site Runoff Permit, and any other requirement of state or federal law or administrative rule.
- (c) As a condition of the City's MS4 permit, the City is obliged to undertake responsibility for administration and enforcement of the Program by adopting a Construction Site Erosion and Sediment Control ordinance designed to achieve the following objectives:
 - (i) Any Person required by law or administrative rule to apply to the Department for a State NPDES General Permit No. 2 shall also be

- required to obtain from the City a Construction Site Runoff Permit in addition to and not in lieu of the State NPDES General Permit No. 2; and
- (ii) The City shall have responsibility for inspection, monitoring and enforcement procedures to promote Applicant's compliance with State NPDES General Permit No. 2 and City Construction Site Runoff Permits.
 - (d) 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 or regulation, or by this Ordinance.

SECTION 4. Definitions. The following definitions shall apply in this chapter. References to "Sections" shall hereafter mean references to sections in this chapter unless otherwise specified. Defined terms shall remain defined terms whether capitalized or not capitalized.

- (a) **Applicant** means any individual, firm, corporation, association, partnership, limited liability companies or any other business entity or proprietor of land that will perform Land Disturbing Activity.
- (b) **Best Management Practices ("BMPs")** means physical, structural and/or managerial practices that, when used singly or in combination, control activities including, but not limited to, site run-off, spillage and leaks, and waste disposal, and prevent or reduce the discharge of pollutants directly or indirectly to the Waters of the United States. BMP's may include schedules of activities, prohibition of practices, design standards, educational activities and treatment requirements.
- (c) **Board of Appeals** means the City Council of the City of Coralville, sitting as an appeal board for this chapter.
- (d) **Building Permit** means a permit issued pursuant to Chapter 155 of the Code of Ordinances of the City of Coralville.
- (e) **City Council** means the City Council of the City of Coralville, Iowa.
- (f) **City Engineer** means the City Engineer of the City of Coralville, Iowa and his/her authorized designees.
- (g) **Clean Water Act** means the Federal Water Pollution Control Act and codified at 33 U.S.C. Sections 1251 et seq., as amended.
- (h) **Department** means the Iowa Department of Natural Resources.

- (i) **Land disturbing activity** means any activity that results in a movement of earth or a change in the existing soil cover (both vegetative and nonvegetative) or the existing topography. Land disturbing activity includes, but are not limited to, clearing, grading, filling, excavation or addition or replacement of impervious surface.
- (j) **Construction Site Runoff Permit** means a permit issued by the City Engineer pursuant to the provisions of this Chapter.
- (k) **MS4** means the City's facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (l) **Municipal Storm Water NPDES Permit ("MS4 Permit")** means a storm water discharge permit issued by the Iowa Department of Natural Resources to the City of Coralville.
- (m) **National Pollutant Discharge Elimination System** means the national program for controlling discharges under the federal Clean Water Act.
- (n) **Permit Holder** means an Applicant who has been issued a Construction Site Runoff Permit pursuant to the provisions of this Chapter.
- (o) **Person** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of the Premises or as the owner's agent.
- (p) **Program** means the National Pollutant Discharge Elimination System.
- (q) **Public Nuisance** means a Nuisance as described by Chapter 50 of the Code of Ordinances of the City of Coralville.
- (r) **Responsible Person** means any foreman, superintendent, project manager, or other person with operational control over site activities and day-to-day operational control over permit conditions at the Site of any construction activity.
- (s) **Site** means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, where land disturbing activities occur.
- (t) **State NPDES General Permit No. 2** means a permit issued pursuant to the Clean Water Act and Chapter 455B of the Code of Iowa, and associated regulations.

- (u) **Storm Water** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.
- (v) **Storm Water Pollution Prevention Plan (“SWPPP”)** means a document which describes the Best Management Practices and activities to be implemented by a Person to identify sources of pollution or contamination at a Site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or receiving waters of the United States to the maximum extent practicable.
- (w) **Utility** means any person who uses the City’s right-of-way or private property rights to provide electric, gas, cable television, telephone, or any other telecommunications services.

SECTION 5. Administration. The City Engineer shall administer, implement and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the City Engineer may be delegated by the City Engineer to persons or entities acting in the beneficial interest of or in the employ of the City.

SECTION 6. City Not Liable. Nothing contained in this Chapter is intended to be nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees, or agents for any injury or damage resulting from the failure of Responsible Parties to comply with the provisions of this Chapter or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this Chapter, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this Chapter by its officers, employees or agents.

SECTION 7. Adoption of Best Management Practices Manual. The City hereby adopts, as its Best Management Practices Manual, Section 10 of the Municipal Design Standards for the City of Coralville (1999 Revision) a copy which is on file with the City Engineer. All Best Management Practices shall comply with, and be constructed, as shown in said Section 10.

SECTION 8. Permit Required. Any Person who will conducting any of the following land disturbing activity, shall be required to obtain a Construction Site Runoff Permit from the City Engineer prior to performing the land disturbing activity:

- (a) Land disturbing activity that disturbs one (1) or more acres of land;
- (b) Land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development;

The following uses are exempt from the requirement to obtain a Construction Site Runoff Permit:

- (a) Agricultural land management activities, including but not limited to, tilling, planting, or harvesting of agricultural, horticultural or forest crops.
- (b) Utility projects provided that less than one acre will be disturbed.

SECTION 9. Permit Application; Transfer of Responsibility. All applications for a Construction Site Runoff Permit shall be made on a form provided by the City.

The application shall include the following information:

- (a) Applicant's name, address and phone number;
- (b) Name of Responsible Person;
- (c) Legal description of property to be covered by permit;
- (d) Street address or location of property to be covered by permit;
- (e) Estimated date for commencement and completion of land disturbing activity;
- (f) Description and purpose of land disturbing activity;
- (g) Applicant's plans, specifications, and supporting materials previously submitted to the Department in support of the Applicant's application for the State NPDES General Permit No. 2; (if applicable)
- (h) Applicant's authorizations issued pursuant to the Applicant's State NPDES General Permit No. 2; (if applicable)
- (i) a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the provisions of this Ordinance; and
- (j) if applicable, a document that complies with Part II(F) of the State NPDES General Permit No. 2, transferring responsibility to an owner in a larger common plan of development.

Construction Site Runoff Construction Site Runoff

SECTION 11. Storm Water Pollution Prevention Plan (SWPPP). Pursuant to Section 7 above, every SWPPP submitted to the City in support of an application for a City Construction Site Runoff Permit shall:

- (a) comply with all current minimum mandatory requirements for SWPPP's promulgated by the Department in connection with the issuance of a State NPDES General Permit No. 2;
- (b) shall, if the applicant is required to file 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 current mandatory minimum requirements pertaining to such applications; and
- (c) shall comply with all other applicable state or federal permit requirements in existence at the time of application; and
- (d) shall be prepared by a professional engineer licensed in the State of Iowa; landscape architect; or a professional in erosion or sediment control, credentialed in a manner acceptable to the City; and

- (e) shall include within the SWPPP a signed and dated certification by the NPDES General Permit No. 2 permit holder that the SWPPP complies with all of the requirements of this ordinance and the Applicant's NPDES General Permit No. 2.

SECTION 12. Condition Precedent. Prior to any land disturbing activity, the City shall conduct an initial inspection for the purposes of determining compliance with this Chapter, the State General Permit No. 2 and the accepted SWPPP for the Site. No Building Permit may be issued until a Construction Site Runoff Permit is issued by the City Engineer.

SECTION 13. Issuance of Permit.

- (a) Following the preliminary inspection as described in Section 11 above, if the City Engineer determines that the applicant has satisfied the requirements of the State NPDES General Permit No. 2 and this chapter, the City Engineer may issue a Construction Site Runoff Permit.
- (b) The City Engineer may impose any reasonable conditions upon the issuance of a permit and performance of the Applicant thereunder to protect public health, safety and welfare and to promote the objectives of this chapter.

SECTION 14. Denial of Permit. The City Engineer may deny an application for a Construction Site Runoff Permit when the application does not satisfy the requirements of this Chapter. If a permit is denied, the City Engineer shall state the reasons for the denial in writing and return the application to the applicant.

SECTION 15. Compliance Required. All Permit Holders, and the Permit Holders contractors and agents, shall comply with the provisions of this Chapter, with the provisions of the Department's Storm Water General Permit No. 2 and the Construction Site Runoff Permit.

SECTION 16. Right of Entry. The City Engineer or other duly authorized employees or contractors of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation and monitoring the Property in accordance with the provisions of this Chapter.

SECTION 17. Required Inspections for Construction Site Runoff Permits.

In accordance with the requirements of the City's MS4 permit, the City shall inspect each Site at least once each calendar quarter, and within seven (7) days of a ½-inch rain event, to ensure compliance with this Chapter, the State General Permit No. 2 and the Construction Site Runoff Permit. Failure to comply with the terms of this Chapter, the State's General Permit No. 2 or the Construction Site Runoff Permit shall constitute a violation of this Chapter.

SECTION 18. Stop Work Order. When the City Engineer determines that any land disturbing activity regulated by this chapter is being performed in a manner contrary to the provisions of this ordinance, the City Engineer is authorized to issue a Stop Work Order.

The Stop Work Order shall be in writing and shall be served upon the owner of the Site, Responsible Person, or to the Person(s) violating the requirements of this Chapter. The Stop Work Order shall state the reason for the order, and the conditions to be corrected prior to the lifting of the Stop Work Order.

Any Person who shall continue any work after having been served a stop work order, except such work as that Person is ordered to perform to remove a violation or unsafe condition, shall be a violation of this chapter.

SECTION 19. Fees.

- (a) Prior to the issuance of a Construction Site Runoff Permit, the Applicant shall submit an application fee as adopted by Resolution of the City Council.
- (b) The fees for review and inspection shall be adopted by Resolution of the City Council.

SECTION 20. Notice of Violation – Administrative Penalties.

- (a) The City Engineer is hereby authorized to issue a notice of violation imposing an administrative penalty upon any person who violates a provision of this Chapter.
- (b) The administrative penalty for such violations shall be provided in the schedule of administrative penalties adopted by Resolution of the City Council.
- (c) Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to the violator by the City Engineer. Service shall be made by regular mail or delivery in person.
- (d) Penalties shall be paid in full within 30 days of the issuance of the notice.
- (e) The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided Section 21 below. However, if the Permit Holder fails to correct the violation within a reasonable time as determined by the City Engineer; fails to pay the administrative penalty as provided in subparagraph (d), or the City Engineer determines that immediate enforcement action, is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this Chapter, then the City Engineer shall proceed under Section 21 below.

- (f) The City Engineer shall maintain a record of all violations, administrative penalties charges or other enforcement actions taken.

SECTION 21. Misdemeanor and Municipal Infraction Penalties.

- (a) Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter or who resists the enforcement of any section of this chapter shall be guilty of a misdemeanor punishable by a fine or imprisonment as provided in the Code of Ordinances.
- (b) Any Person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter or who resists the enforcement of any section of this chapter shall be deemed to have committed a municipal infraction in accordance with Chapter 4 of this Code of Ordinances.

SECTION 22. Nuisance.

Any violation of this Chapter shall be deemed to be a public nuisance injurious to the public health, safety and welfare. The City Attorney, in addition to the penalties in Sections 20 and 21, may correct said violations as a nuisance pursuant to Chapter 50 of this Code of Ordinances.

SECTION 23. Remedies Not Exclusive. The remedies provided in the chapter and otherwise in this Code of Ordinances are not exclusive, or in lieu of the rights and remedies that the City may have at law or in equity.

SECTION 24. Appeals.

- (a) The City Council, in regular or special session, shall sit as the Board of Appeals and, on appeals under this chapter, may seek additional professional counsel schooled in matters contained in this chapter. A simple majority of the appeal board shall be deemed to settle matters brought before the board.
- (b) The City Council, sitting as the Board of Appeals, shall hold meeting from time to time and conduct hearings on appeals. The appeal board shall act within thirty (30) days on a timely written request, and if the appeal board fails to act within thirty (30) days after the filing of a timely written appeal, the appeal shall be deemed granted in favor of the appellant.
- (c) Any person aggrieved by any ruling, decision, interpretation or order regarding the denial of a Construction Site Runoff Permit or a Stop Work Order by the City Engineer shall have the right to appeal to the Board of Appeals by filing written notice of such appeal with the City Clerk within ten (10) business days from the date of the City Engineer's ruling. If such a notice is filed, the City Engineer shall set a time and place for hearing and so notify the party that has filed the appeal. The hearing shall be open to the public and subject to the time limitation

set out in the immediately preceding subsection. The Board of Appeals by majority vote of the members present shall affirm, modify or reverse an appealed ruling, decision, interpretation or order of the City Engineer. The Board of Appeals may permit such variance that can be made without increasing the health or safety of persons or property, and when the granting thereof will not violate the intent and purpose of this chapter. Mere inconvenience or additional cost to the appellant is not grounds for the granting of such variance.

- (d) The Board of Appeals shall act within thirty (30) days on a timely written request. A decision by the Board of Appeals modifying, affirming or reversing the decision of the City Engineer must be in writing and supported by written findings establishing the reasonableness of the decision.
- (e) Upon after both fully availing itself of the review process set forth in paragraphs above, and upon receiving formal, written affirmation of a permit denial or revocation of a permit for which the aforementioned review process was requested, the Person may bring an action in district court to review a decision of the City made under this chapter.