

**POST CONSTRUCTION STORM WATER MANAGEMENT (“POST CON”)
MODEL ORDINANCE**

CHAPTER _____, POST CONSTRUCTION STORM WATER MANAGEMENT.

SECTION 1. FINDINGS

- 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) (the “MS4 Permit”). The City of _____ (“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.
- 1.2. 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 storm water permit coverage is required by adopting a POST CONSTRUCTION STORM WATER MANAGEMENT ORDINANCE (“POST CON”) designed:
 - 1.2.1. To require water quality and quantity components be considered in the design of new construction and implemented when practical; and
 - 1.2.2. To promote the use of storm water detention and retention, grass swales, bioretention swales, riparian buffers and proper operation and maintenance of these facilities; and
 - 1.2.3. To prohibit construction activities from commencing until the plans for post-construction runoff controls have been reviewed and approved by the City; and
 - 1.2.4. To require the City to have responsibility for inspection, monitoring and enforcement procedures to promote applicants’ compliance with State NPDES General Permits #2 which require post construction compliance by Applicants.
- 1.3. 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.

- 1.4 Terms used in this ordinance shall have the meanings specified in the Program and in the City's Construction Site Erosion and Sediment Control Ordinance (COSESCO).

SECTION 2. PROCEDURE FOR POST CON COMPLIANCE

- 2.1 Each Applicant or its successor shall be responsible for maintaining all storm water management facilities and features which were approved by the City to meet the requirements of COSESCO following completion of construction.
- 2.2 No occupancy permit shall be issued by the City for a property which is or was the subject of an NPDES permit unless water quality and quantity components addressed in the Applicant's BMP and SWPP as required by COSESCO are installed and operating as proposed by the Applicant.
- 2.3 Each property for which an occupancy permit or completion permit is sought shall fully comply with all existing requirements promulgated by the IDNR in connection with water quality and quantity components required to be addressed by the City as part of its MS4 Permit; and shall comply with all other applicable City, state or federal permit requirements as they apply to the City or to the Property.
- 2.4 In the event the Applicant and the City agree that storm water systems installed by Applicant to meet its requirements pursuant to COSESCO are to be dedicated to the City, the City shall prepare a dedication agreement on such terms and conditions as the City determines, in its sole discretion, are appropriate, including the requirement that the Applicant pay all costs and fees, including reasonable attorneys' fees and consultant fees, incurred by the City in connection with said dedication. The City may impose such other charges and bonding requirements as it deems reasonably required to assure the performance of the storm water systems.

SECTION 3. INSPECTION PROCEDURES FOR POST CON

- 3.1 All inspections required under this ordinance shall be conducted by [the city engineer] [the city public works director] [the community development director] [the building inspector] [a subcontractor credentialed in a manner satisfactory to the city], hereinafter referred to as the "enforcement officer."
- 3.2 Any Applicant or Property that is or was the subject to the terms of COSESCO shall allow the City or an authorized representative of the City, upon the presentation of credentials and other documentation as may be required by law, to enter upon Applicant's private property that was the subject of the NPDES for inspection purposes.
- 3.3 The City may conduct inspections at any time but unless it has been notified of a violation of this ordinance, such inspections shall not occur more than once in each calendar year.

3.4 In the event an inspection identifies an area or incident of non-compliance, the City may, at its discretion, provide Applicant with a bill of particulars that identifies the area or incident of non-compliance and sets forth the requirements to return to complaint. Except in an emergency situation as determined solely by the City in its discretion, before an enforcement action is taken, a bill of particulars must first be provided to Applicant not less than ten (10) business days prior to the commencement of the enforcement action.

SECTION 4. ENFORCEMENT BY LEGAL OR ADMINISTRATIVE ACTION

- 4.1 Violation of any provision of this ordinance may be enforced by legal (civil) action including an action for injunctive relief.
- 4.2 Violation of any provision of this ordinance may also be enforced as a municipal infraction within the meaning of §364.22, pursuant to the City's municipal infraction ordinance.
- 4.3 Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.