

CHAPTER 161

POST-CONSTRUCTION STORM WATER CONTROL

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161.01 FINDINGS OF FACT.

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 Windsor Heights 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.
2. As a condition of the City's MS4 Permit, the City is obliged to ~~develop, implement, adopt~~ and enforce a POST-CONSTRUCTION STORM WATER CONTROL ordinance.
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 operations under this chapter entirely by charges imposed on the owners or developers 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. Land development and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition ~~if left uncontrolled~~; this ~~uncontrolled~~ storm water runoff contributes to increased quantities of water-borne pollutants; and storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from development sites.
5. Therefore, City establishes this set of City storm water requirements applicable to all surface waters to provide reasonable guidance for the regulation of storm water runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of storm water runoff discharges from land development and other construction activities in order to control and minimize increases in storm water runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with storm water runoff is in the public interest and will prevent threats to public health and safety.
6. The *Iowa Storm Water Management Manual* published collaboratively by the Iowa Department of Natural Resources and ~~The Center for Transportation Research and Education at Iowa State University~~ ~~maintained by the Iowa Storm Water Education Program~~ establishes guidelines consisting of unified sizing criteria (~~water quality volume, channel protection storage volume, overbank flood protection, extreme flood protection~~), storm water management designs and specifications and best management practices (BMPs). The City hereby finds and declares

that the guidelines provided for in the *Iowa Storm Water Management Manual*, ~~and in~~ future editions thereof, ~~should be and~~ along with any locally adopted modifications, are hereby adopted as the storm water management standards of the City. Any BMP installation that complies with the provisions of the *Iowa Storm Water Management Manual*, or future editions thereof, at the time of installation shall be deemed to have been installed in accordance with this chapter.

161.02 PURPOSE. The purpose of this chapter is to adopt as the City's standards and sizing criteria and BMPs to address said standards the Guidelines, Sizing Criteria, and BMPs proposed by the *Iowa Storm Water Management Manual* and as specifically identified above (hereinafter collectively "City storm water requirements") in order to protect and safeguard the general health, safety, and welfare of the public within this jurisdiction. This chapter seeks to meet that purpose through the following objectives:

1. Minimize increases in storm water runoff from development within the City limits and fringe area in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
2. Minimize increases in non-point source pollution caused by storm water runoff from development which would otherwise degrade local water quality;
3. Minimize the total annual volume of surface water runoff which flows from any specific development project site after completion to not exceed the pre-development hydrologic regime to the maximum extent practicable; and
4. Reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever possible, through establishment of appropriate minimum storm water management standards and BMPs and to ensure that BMPs are properly maintained and pose no threat to public safety.

161.03 APPLICABILITY.

1. This chapter is applicable to all subdivision or site plan applications meeting the minimum square foot applicability criteria of subsection 2 of this section, unless eligible for an exemption or granted a waiver by the City under Section 161.07 of this chapter. This chapter also applies to land disturbance activities that are smaller than the minimum square foot applicability criteria specified in subsection 2 if such activities are part of a larger common plan of development that meets the minimum square foot applicability criteria specified in subsection 2, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by an engineer hired by the City local environmental protection officials to ensure that established water quality standards will be maintained during and after development of the site and that post-construction runoff levels are consistent with any local and regional watershed plans. The following activities are exempt from this chapter:

A. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the appropriate agency, as applicable.

B. Additions or modifications to existing single-family structures

C. Repairs to any storm water BMPs deemed necessary by the City.

~~1. Reconstruction or rehabilitation to existing City streets;~~

2. ~~2.~~ City storm water requirements must be met for development or redevelopment to be approved. Final authorization of all development and redevelopment projects shall be

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determined after a review by the City. City storm water requirements apply to any development and redevelopment meeting at least one of the following:

- A. Land disturbing activity exceeding 43,560 square feet in area; or
- B. Land disturbing activity creating or recreating 10,000 square feet in area or more of impervious cover, regardless of existing conditions; or disturbing one acre or more of land, and to any development disturbing less than one acre if the amount of impervious cover created exceeds 5,000 square feet. The following activities are exempt from this chapter:
 - C. Land disturbing activities that are smaller than the minimum square feet applicability criteria set forth in this chapter, if such activities are part of a larger common plan of development that may or may not take place at the same time; or
 - D. Land disturbing activity exceeding 25,000 square feet in area where the existing land is being redeveloped.
 - A. Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan prepared or approved by the appropriate agency, as applicable.
 - B. Additions or modifications to existing single family structures.
 - C. Developments that do not disturb more than one acre of land provided they are not part of a larger common development plan.
 - D. Repairs to any storm water BMPs deemed necessary by City.

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3. When a site development plan is submitted that qualifies as a development, as defined in this chapter, decisions on permitting any appropriate on-site BMPs shall be guided by the SUDAS Design Manual. Final authorization of all development and redevelopment projects will be determined after a review by City.

161.04 COMPATIBILITY WITH OTHER REQUIREMENTS.

- 1. It is intended that this chapter be construed to be consistent with Chapter 160, Construction Site Erosion and Sediment Control, and Chapter 102, Illicit Discharge to Storm Sewer System, of this Code of Ordinances.
- 2. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

161.05 DEFINITIONS. Terms in this chapter, other than those defined below, shall have the meanings set out in the *Iowa Storm Water Management Manual*.

- 1. **“Applicant”** means a property owner or agent of a property owner who has filed an application for a storm water management permit.
- 2. **“Best Management Practice (BMP)”** means a practice or series of practices used to manage storm water and as further defined in the *Iowa Storm Water Management Manual*.
- 3. **“Building”** means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

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~~2-4.~~ “Channel Protection Storage Volume” means providing for practices that will allow for extended detention of the runoff generated by a 1-year, 24-hour event. This means capturing the runoff volume from a storm of this nature, and slowly releasing it over a period of no less than 24-hours to reduce rapid “bounce” effect common in many urban streams that leads to downcutting and streambank erosion.

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~~5.~~ “City storm water requirements” means the standards, sizing criteria, BMPs and other requirements established in this chapter or “standard” means the guidelines provided for in this ordinance and the Iowa Storm Water Management Manual.

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~~6.~~ “Concept Plan” shall be submitted for review during the planning process. This plan should be considered to be a 30% development plan showing conceptually where stormwater practices will be located and how the storm water will be routed to th facilities. This submittal shall include all of the information required stated in this chapter.

~~3-7.~~ “COESCO” means Construction Site Erosion and Sediment Control Ordinance permit issued by the City of Windsor Heights’ Public Works Department.

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~~4-8.~~ “Dedication” means the deliberate appropriation of property by its owner for general public use.

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~~5-9.~~ “Developer” means a person who undertakes land disturbance activities.

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~~6-10.~~ “Development” means either:

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A. Land disturbance activity exceeding 43,560 square feet on land previously vacant of buildings or largely free of previous land disturbance activity other than traditional agricultural activities; or

B. Land disturbance activity exceeding 43,560 square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential (a.k.a. “redevelopment”).

~~7-11.~~ “Drainage easement” means a legal right granted by a landowner to a cable operator allowing the use of private land for storm water management purposes.

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~~12.~~ “Enforcement officer” means that person designated by the City having responsibility for administration and enforcement of this chapter.

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~~13.~~ “Existing Conditions” means the circumstances of the site at the time of first review of site plans or upon- initial submittal of permit applications.

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~~8-14.~~ “Extreme Flood Protection” means managing the effects of larger storm events (10-year to 100-year recurrence intervals) on the storm water management system, adjacent property, and downstream facilities and property. The management of these extreme events is accomplished using detention controls and/or floodplain management.

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~~15.~~ “Fee in lieu” means a payment of money in place of achieving or exceeding all or part of City storm water requirements.

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~~9-16.~~ “Impervious Surface” means surfaces (roads, sidewalks, driveways and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, and stone, rooftops as well as soils compacted by urban development.

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~~10-17.~~ Iowa Storm Water Management Manual means the current Iowa Storm Water 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, and which recommends storm water management guidelines and uniform sizing criteria and BMPs designed to address said guidelines.

18. “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.

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~~14-19.~~ “Low Impact Development” means an approach to storm water management that attempts to mimic pre-development conditions by compensating for losses of rainfall abstraction through infiltration, evapotranspiration, surface storage, and increased travel time to reduce excess runoff.

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~~12-20.~~ “Landowner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

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21. “Maintenance agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water BMPs.

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22. “Overbank Flood Protection” means providing on-site storm water detention to limit runoff peak flows rates from the 5-year recurrence interval storm event to prevent downstream surcharge of conveyance systems and reduce overbank flooding. At the site development level, this can be accomplished by providing detention practices with multi-stage outlets that control the outflow from these events to pre-settlement conditions (meadow in good condition).

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23. “Pre-settlement” means the nature of the site prior to human development when the landscape was dominated by naturally occurring features. Intended for storm water calculations, meadow in good condition.

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~~14-24.~~ “Storm water management” means the use of BMPs that are designed in accordance with City storm water requirements to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

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25. “Storm Water Pollution Prevention Plan” (SWPPP) means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

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26. “Unified Sizing Criteria” means an integrated approach to managing storm water runoff quality and quantity by addressing the adverse impacts of stormwater runoff from development. The intent is to comprehensively manage stormwater to remove pollutants and improve water quality, prevent downstream streambank and channel erosion, reduce downstream overbank flooding and safely convey and reduce runoff from extreme storm events.

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~~15-27.~~ “Water Quality Volume” means the runoff resulting from rainfall depth of 1.25”. By managing these storms, many of the “first flush” pollutants of concern will be effectively managed on-site.

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161.06 PERMIT PROCEDURES AND REQUIREMENTS.

1. Permit Required. No landowner or developer shall receive any of the building, grading, or other land development permits required for land disturbance activities without first meeting the requirements of this chapter prior to commencing the proposed activity.
2. Application Requirements.
 - A. Unless specifically exempted by this chapter, any landowner or developer desiring a permit for a land disturbance activity shall submit to the City a permit application on a form provided for that purpose.

B. Unless otherwise exempted by this chapter, a permit application must be accompanied by the following in order that the permit application be considered:

- (1) A storm water management concept plan;
- (2) A maintenance agreement; and
- (3) A non-refundable permit review fee.

C. The storm water management concept plan and maintenance agreement shall be prepared to meet the requirements of this chapter, and fees shall be those established by the City annually or more often by separate ordinance or resolution.

3. **Application Review Fees.** The fee for review of any land development application shall be based on the amount of land to be disturbed at the site; the fee structure shall be established by City, and said fees shall be paid prior to the issuance of any applicable City permits. All such revenue shall be credited to a City budgetary category to support the administration of this chapter.

4. **Application Procedure.**

A. 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 chapter and other applicable ordinances.

B. Applications for land disturbance activity permits must be filed for review with the office of the City Clerk on any regular business day.

C. Permit applications shall include the following:

- (1) Two copies of the storm water management concept plan;
- (2) Two copies of the maintenance agreement, and
- (3) Any required review fees.

D. The City shall make a determination regarding the completeness of a 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.

E. Within 15 business days of the receipt of a complete permit application, including all documents as required by this chapter, City shall inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved by the enforcement officer.

F. If the permit application, storm water management concept plan, or maintenance agreement are disapproved, the applicant may revise the storm water management concept plan or agreement. If additional information is submitted, the City shall have 15 business days from the date the additional information is received to inform the applicant that the storm water management concept plan and maintenance agreement are either approved or disapproved.

G. If the permit application, storm water management final plan, and maintenance agreement are approved by City, all appropriate land disturbance activity permits shall be issued.

5. Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date City notifies the permit holder that all storm water BMPs have passed the final inspection required under permit conditions.

161.07 WAIVERS. Every applicant shall provide for storm water management as required by this chapter, unless a written request is filed to waive implementation of BMPs, in whole or in part, and such waiver is granted. Requests to waive implementation of BMPs in whole or in part shall be submitted to City for approval.

1. ~~Partial Waivers.~~ A ~~partial~~ waiver of BMPs required by this chapter may be granted provided that at least one of the following conditions is established by applicant based on authoritative written evidence satisfactory to City:

A. The proposed development is not likely to impair attainment of the objectives of this chapter.

B. Alternative minimum requirements for on-site management of storm water have been established in a storm water management final plan that has been approved by City and fully implemented.

C. Provisions are made to manage storm water by an off-site facility within the same watershed and that has been approved by the City. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices, and there is, in the City's sole judgment, a responsible entity legally obligated to monitor the performance of and maintain the efficiency of storm water BMPs in accordance with a written and recorded maintenance agreement.

D. In instances where one of the above conditions is established, the applicant must further establish by authoritative written evidence satisfactory to City that the partial waiver will not result in any of the following impacts to downstream waterways:

- (1) Deterioration of existing culverts, bridges, dams, and other structures; or
- (2) Degradation of biological functions or habitat; or
- (3) Accelerated stream bank or streambed erosion or siltation; or
- (4) Increased threat of flood damage to public health, life, property.

2. ~~General Waivers.~~ If the City finds that a ~~general~~ waiver is appropriate because implementation of no on-site storm water BMPs is feasible due to the natural or existing physical characteristics of a site, or that one of the conditions specified in subsection 1 above cannot be established to a certainty, or that any one or more of the impacts to downstream waterways specified above cannot be entirely averted, the applicant shall execute a binding written agreement to accomplish one or more of the following mitigation measures selected by City:

A. The purchase and donation of privately owned lands, or the grant of an easement to be dedicated for preservation and/or reconstruction of native ecosystems of lands strategically located in the watershed consistent with the purposes of this chapter, of a sufficient quantity to enable City or others to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver.

B. The creation of one or more storm water BMPs on previously developed properties, public or private, that currently lack storm water BMPs, having a capacity to

achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver.

C. Monetary contributions (fee in lieu) to fund storm water management activities such as research and studies (e.g., regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates, stream flow monitoring, threatened and endangered species studies, hydrologic studies, monitoring of storm water BMPs, and stream corridor stabilization practices). The monetary contribution required shall be in accordance with a fee schedule (unless the developer and the storm water authority agree on a greater alternate contribution) established by City, based on the estimated cost savings to the developer resulting from the waiver and the estimated future costs to City to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

D. D. Dedication of land or granting of an easement by the applicant of a value equivalent to the cost to City of the construction of an off-site storm water management facility sufficient to achieve City storm water requirements with respect to a number of cubic feet of annual storm water equivalent to the estimated number of cubic feet of annual storm water that will not achieve City storm water requirements as a consequence of the waiver. The agreement shall be entered into by the applicant and City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

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E. Factors that may generate waivers:

1. Shallow Bedrock
2. High Groundwater
3. Hotspots or contaminated soils
4. City owned construction that was designed prior to 2019.

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161.08 STORM WATER STANDARDS. Unless granted a waiver by the City, applicants shall meet the storm water standards established in this chapter.

1. The site design shall provide on-site treatment during construction and post-construction to ensure no increases over ~~underdeveloped- pre-development conditions~~ settlement conditions (meadow in good condition, CN=58) for the one-year, 24-hour storm event, the five-year, 24-hour storm event, and the 100-year, 24-hour storm event.
2. The site design shall provide on-site water quality treatment for the runoff resulting from a rainfall depth of 1.25 inches over the post-construction site area in order to reduce average annual post-development total suspended solids loadings by at least 80%. Roof top areas are exempt from the site area for water quality.
3. The site design shall retain on-site for recharge a portion of the water quality treatment volume calculated as a soil specific recharge factor multiplied by the volumetric runoff coefficient multiplied by the area and all divided by 12. The soil specific recharge factor is given as 0.51 for Hydrologic Soil Group (HSG) A soils, 0.34 for HSG B soils, 0.17 for HSG C soils,

and 0.08 for HSG D soils. The volumetric runoff coefficient is calculated as $0.05 + 0.009$ multiplied by the site impervious percentage. See the *Iowa Storm Water Management Manual* for additional clarification on the calculation. For areas of the site where there is no feasible way to achieve the recharge requirement, other options may be considered by the City if the options meet the performance standard listed for sites with restrictions in subsection 4 below.

4. Applicant shall fully attempt to comply with the standards in subsections 1 through 3 above. Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site. If full compliance is not possible, the following flexible treatment options shall be used:

A. Applicant shall document the flexible treatment options sequence starting with Alternative #1. If Alternative #1 cannot be met, then Alternative #2 shall be analyzed. If Alternative #2 cannot be met then Alternative #3 shall be met. When all of the conditions are fulfilled within an alternative, this sequence is completed.

B. Recharge techniques considered shall include infiltration, reuse and rainwater harvesting, and canopy interception and evapotranspiration and/or additional techniques included in the *Iowa Storm Water Management Manual*.

C. Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.

D. Factors to be considered for each alternative will include:

- (1) Karst or Coal geology.
- (2) Shallow bedrock.
- (3) High groundwater.
- (4) Hotspots or contaminated soils.
- (5) Excessive cost.
- (6) Poor soils (infiltration rates that are too low or too high, problematic urban soils).

E. Alternative #1: Applicant attempts to comply with the following conditions:

- (1) Achieve recharge to the maximum extent practicable, and
- (2) Treat by means of a filtration-based storm water treatment facility, the water quality volume determined in standard 2 above in order to provide removal of fine particles, and
- (3) Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.

F. Alternative #2: Applicant attempts to comply with the following conditions:

- (1) Achieve recharge to the maximum extent practicable, and
- (2) Remove 80% of the annual Total Suspended Solids load, and
- (3) Options considered and presented shall examine the merits of relocating project elements to address varying soil conditions and other constraints across the site.

G. Alternative #3: Off-Site Treatment. Off-site mitigation, as outlined in Section 161.07(2), Waivers, of the required treatment volume that cannot be provided on site can be used to protect Walnut Creek or North Walnut Creek.

5. The site shall be designed to provide vegetated buffers for water quality protection adjacent to receiving channels and waters. Buffers shall commence at "top of bank", or at the delineated boundary of the water body. Buffer width as based on land use and are as follows:

A. Residential: 30 feet

B. Industrial: 50 feet

C. Mid/High Density Residential & Commercial: 50 feet

Redevelopment of infill parcels that are surrounded by existing development shall be considered on a case by case basis. The intent of this section of ordinance is not to make existing lots undevelopable.

5-6. The site shall be designed using the Better Site Design process. Better Site Design involves techniques applied early in the design process to preserve natural areas, reduce impervious cover, distribute runoff and use pervious areas to more effectively treat storm water runoff. Site design should address open space protection, impervious cover minimization, and runoff distribution and minimization, and runoff utilization through considerations such as:

- A. Open space protection and restoration.
 - (1) Conservation of existing natural areas (upland and wetland).
 - (2) Reforestation.
 - (3) Re-establishment of prairies.
 - (4) Restoration of wetlands.
 - (5) Establishment or protection of stream, shoreline and wetland buffers.
 - (6) Re-establishment of native vegetation into the landscape.
- B. Reduction of impervious cover.
 - (1) Reduce new impervious cover through redevelopment of existing sites and use of existing roadways, trails etc.
 - (2) Minimize street width, parking space size, driveway length, sidewalk width.
 - (3) Reduce impervious surface footprint (e.g., two-story buildings, parking ramp).
- C. Distribution and minimization of runoff.
 - (1) Utilize vegetated areas for storm water treatment (e.g., parking lot islands, vegetated areas along property boundaries, front and rear yards, building landscaping).
 - (2) Direct impervious surface runoff to vegetated areas or to designed treatment areas (roofs, parking, driveways drain to pervious areas, not directly to storm sewer or other conveyances).
 - (3) Encourage infiltration and soil storage of runoff through grass channels, soil compost amendment, vegetated swales, rain gardens, etc.

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(4) Plant vegetation that does not require irrigation beyond natural rainfall and runoff from the site.

D. Runoff utilization.

(1) Capture and store runoff for use for irrigation in areas where irrigation is necessary.

~~6.7.~~ The following general criteria shall be incorporated in site design for storm water runoff to protect surface and ground water and other natural resources:

- (1) Reduce impacts on water.
- (2) Protect soils.
- (3) Preserve vegetation.
- (4) Decrease runoff volume.
- (5) Decrease erosion and sedimentation.
- (6) Decrease flow frequency, duration, and peak runoff rates.
- (7) Increase infiltration (groundwater recharge).
- (8) Maintain existing flow patterns.
- (9) Reduce time to peak flows by increasing the time of concentration to and through storm sewers.
- (10) Store storm water runoff on-site.
- (11) Avoid channel erosion.

8.7. Topsoil Requirements:

a. Preservation: No topsoil shall be permanently removed from any construction site in accordance with the Iowa Department of Natural Resources General Permit 2. The preservation of topsoil shall be met only when the depth of topsoil after soil disturbing activities have been completed and final stabilization achieved for the permitted activity is equal to, or greater than, 4.0 inches on all areas of the site where the surface of the ground disturbed for the permitted land disturbing activities is exposed and not covered by concrete, asphalt, gravel or other such impervious material. If 4.0 inches of on-site topsoil is not available, imported topsoil meeting the requirements below or the amendment of existing low - quality on-site material may be used to comply with this requirement. Three inches of low - quality on-site soil, may be incorporated with a minimum of 1.5 inches of compost meeting the requirements below to achieve an acceptable equivalent alternative. Topsoil shall be defined as the soil material excavated from the upper 12 -inches of the soil profile that has a uniform quality free from debris, hard clods, roots, sod, stiff clay, hard pan, stones larger than 1 inch, has a high degree of fertility with an organic matter content of at least 2%, is free of herbicides that prohibit plant growth, has a pH level between 6.0 and 8.0, and is friable with a clay content less than 25%. Compost shall be defined as stable, mature, decomposed organic solid waste that is the result of the accelerated, aerobic biodegradation and stabilization under controlled conditions. The result is a uniform dark, soil - like appearance with 100% of the material passing through a 1 inch sieve (3/ 8 or 1/2 inch screen preferred), a pH range between 5.5 and 9, a minimum organic matter content of 35% dry weight and a soluble salt content of less than 4.0 mmhos/ cm

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b. Compaction: For the purposes of compliance with the Iowa Department of Natural Resources General Permit # 2 requirements, the minimum standard for "minimizing soil compaction" shall be defined as working the soil prior to seeding/ sodding such that a penetrometer can be inserted into the upper 6 inch with less force than 200 psi. As an alternative to the penetrometer test, a soil with a bulk density of less than 1.6 grams/ cubic centimeter shall be deemed compliant with this requirement.

161.09 APPROVAL OF STORM WATER MANAGEMENT CONCEPT PLAN. No application for development will be accepted unless it includes a storm water management concept plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. The storm water management concept plan shall meet the following requirements:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.

2. Indicate whether storm water will be managed on site or off site and, if on site, the general location and type of practices BMPs, with clear citations to the SUDAS Design Manual Iowa Storm Water Management Manual.

2-3. Include a signed and dated certification under penalty of perjury by the preparer of the storm water management concept plan that it complies with all requirements of this chapter and the Iowa Storm Water Management Manual, meets the submittal requirements outlined in the Iowa Storm Water Management Manual, is designed to achieve City storm water requirements, and that the City is entitled to rely upon the certification as due diligence on the part of City.

3. Include a signed and dated certification under penalty of perjury by the preparer of the storm water management concept plan that it complies with all requirements of this chapter and the SUDAS Design Manual, meets the submittal requirements outlined in the SUDAS Design Manual, is designed to achieve City storm water requirements, and that the City is entitled to rely upon the certification as due diligence on the part of City.

4. Include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the storm water BMPs proposed for managing storm water generated at the project site. The intent of this conceptual planning process is to determine the type of storm water BMPs necessary for the proposed project, and ensure adequate planning for management of storm water runoff from future development. To accomplish this goal, the following information shall also be included in the storm water management concept plan:

A. A soil management plan as defined by the Iowa Stormwater Management Manual shall be provided and include a technical assessment of soils that identifies the soil series and the site limitations based on soils data provided in the Web County Soil Survey hosted by Natural Resources Conservation Service (NRCS). It may only be used if soils have not been highly disturbed. Soil borings shall be included when necessary to confirm suitable site conditions for placement of buildings with basements and related structures, especially in areas with hydric soils and shallow depth to groundwater. If a stormwater BMP depends on the hydraulic properties of soils, then the assessment shall include soil borings and measurements of percolation/infiltration rates. The number and location of required soil borings and/or soil test sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP. Borings may range from a minimum of 5' to 20' below subgrade depending on the size of the BMP. This information shall be used to provide a summary of the

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associated risks and potential for adequate drainage related to infiltration practices, groundwater mounding and basement flooding. Consultation with a Certified Professional Soil Scientist, Soil Classifier, or Geotechnical Engineer may be necessary or required.

~~A-B.~~ A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural storm water management and sediment and erosion BMPs. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads, and easements; and the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required. A copy of the current SWPPP may satisfy this requirement.

~~B-C.~~ Sufficient engineering analysis to show that the proposed BMPs are capable of achieving City storm water requirements for the site in compliance with this chapter.

~~D.~~ A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive BMPs that provide particular opportunities or constraints for development.

~~E-E.~~ Landscaping and stabilization shall be accomplished to prevent stormwater violations or impairment of BMPs. In addition, a landscaping plan must be submitted with the final as-built drawings describing the vegetation stabilization and management techniques to be used at the site after construction is completed. This plan will include the entity responsible for vegetation at the site and practices that will be used to ensure adequate vegetative cover.

~~D-F.~~ A written description of the required maintenance burden for any proposed BMPs.

~~E-G.~~ The City may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

~~F-H.~~ For development occurring on a previously developed site, an applicant shall be required to include within the storm water management concept plan BMPs for controlling existing storm water runoff discharges from the site in accordance with this chapter to the maximum extent practicable.

The storm water management concept plan shall be referred for comment to all other interested agencies, and any comments must be addressed in a storm water management final plan.

161.10 APPROVAL OF STORM WATER MANAGEMENT FINAL PLAN. No building, grading, or sediment control permit shall be issued until a satisfactory storm water management final plan (or a waiver thereof) shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this chapter. After review of the storm water management concept plan, and modifications to that plan as deemed necessary by City, a storm water management final plan must be submitted to the City for approval. The storm water management final plan, in addition to the information included in the storm water management concept plan, shall:

1. Be prepared by a licensed professional engineer or landscape architect or individual credentialed in a manner satisfactory to the City.
2. Indicate whether storm water will be managed on site or off site and, if on site, the general location and type of practices, with clear citations to the [SUDAS Design Iowa Storm Water Management](#) Manual.
3. Include a signed and dated certification under penalty of perjury by the preparer of the storm water management final plan that it complies with all requirements of this chapter and the SUDAS Design Manual, meets the submittal requirements outlined in the [SUDAS Design Iowa Storm Water Management](#) Manual, is designed to achieve City storm water requirements, and that City is entitled to rely upon the certification as due diligence on the part of City.
4. The storm water management final plan shall also include:
 - A. A detailed summary of how and why the storm water management final plan differs, if at all, from the storm water management concept plan previously submitted.
 - B. Contact information, including but not limited to the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
 - C. Topographic base map, consisting of a 1" = 200' topographic base map, of the site which extends a minimum of 300 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown. [A minimum of 2' contours shall be shown on-site and 2' contours outside of the proposed site.](#)
 - D. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the *Iowa Storm Water Management Manual*. Such calculations shall include:
 - (1) Description of the design storm frequency, intensity and duration;
 - (2) Time of concentration;
 - (3) Soil curve numbers or runoff coefficients;
 - (4) Peak runoff rates and total runoff volumes for each watershed area;
 - (5) Infiltration rates, where applicable;
 - (6) Culvert capacities;
 - (7) Flow velocities;
 - (8) Data on the increase in rate and volume of runoff for the design storms referenced as referenced in the NOAA Atlas 14, Volumes 8 and 9 (April 2013); and
 - (9) Documentation of sources for all computation methods and field test results.
 - E. If a storm water BMP depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP.

F. A maintenance and repair plan for all storm water BMPs including detailed maintenance and repair procedures to ensure their continued efficient function. These plans will identify the parts or components of a storm water BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

G. A detailed landscaping plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the soil and water conservation district.

H. Proof of permanent ~~recorded maintenance~~recorded maintenance easements that will ensure access to all storm water BMPs at the site for the purpose of inspection and repair. These easements will be recorded with the storm water management final plan and will remain in effect even with transfer of title to the property.

I. Proof of a recorded maintenance agreement binding on all subsequent owners of land served by storm water BMPs to ensure maintenance and repair in accordance with the specifications of this chapter.

J. Copies of all existing SWPPP'S (as required by the City's COSESCO ordinance) current as of the date of submission of the storm water management final plan for all construction activities related to implementing any on-site storm water BMPs.

K. Proof that the applicant has acquired all other applicable environmental permits for the site, or that no other such permits are required, prior to submission of the storm water management final plan to the City.

L. For lot development impacted by storm water BMPs and conveyance features:

M. ~~The builder permit holder shall provide to the Municipal Engineer, or designated City representative, an Elevation Certificate that is signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.~~

N. ~~The Elevation Certificate shall certify that the protected level (lowest opening or protective flood barrier that achieves the same result) of all buildings shall be a minimum of 3 feet above the 100-year water surface elevation of storm water BMPs.~~

O. ~~Building foundations adjacent to storm water BMPs and/or storm water infrastructure (i.e. conveyance features, inlets, manholes) shall be 3 feet above the 100-year water surface elevation.~~

P. ~~Accommodating Upstream Drainage Areas: Any necessary and appropriate storm water BMPs shall be designed to accommodate runoff from any upstream area potentially draining into or through the area to be subdivided, whether such area is inside or outside the area to be subdivided. Such design shall assume that the upstream area upon development or redevelopment will be regulated such that volume of surface water runoff shall be equal to the runoff from the current land use condition~~

K-Q. ~~Protecting Downstream Drainage Areas: Any development shall provide for mitigation of any overload condition reasonably anticipated on any existing downstream storm water BMPs outside the area to be subdivided, provided that the development or use of the area to be subdivided creates or contributes to such condition~~

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161.11 PERFORMANCE SECURITY OR BOND.

1. The City shall require the submittal of an installation performance security or bond prior to issuance of a permit in order to ensure that the storm water BMPs are installed by the permit holder as required by the approved storm water management final plan.
2. The amount of the installation performance security or bond shall be the total estimated construction cost of the storm water BMPs approved under the permit, plus 25%. The installation performance security or bond shall contain forfeiture provisions for failure to complete work specified in the storm water management final plan.
3. The installation performance security or bond shall be released in full only upon submission of "as-built plans" of all storm water BMPs specified in the storm water management final plan and written certification by a professional engineer that the storm water BMPs have been installed in accordance with the approved storm water management final plan and other applicable provisions of this chapter. The City will make a final inspection of storm water BMPs to ensure compliance with the approved storm water management final plan and the provisions of this chapter. Provisions for a partial pro rata release of the installation performance security or bond based on the completion of various development stages can be made at the discretion of City.
4. The installation performance security or bond shall inure only to the benefit of the City for purposes of completing, modifying, or correcting the storm water BMPs to comply with this chapter.

161.12 MAINTENANCE PERFORMANCE SECURITY OR BOND.

1. The City shall also require the submittal of a maintenance performance security or bond prior to issuance of a permit in order to insure that the storm water BMPs are maintained in an effective state for a minimum of 10 years.
2. This maintenance performance security or bond may be released by the City upon a showing satisfactory to the City that:
 - A. The permit holder has assigned to another bona fide, financially responsible legal entity, such as a homeowners' or similar organization organized under Iowa law, responsibility for maintenance of the storm water BMPs in an effective state for the balance of the 10-year period after assignment; and
 - B. Said assignee has fully accepted such responsibility in a written document that qualifies for recording and has been recorded in the County Recorder's office under Iowa law; and
 - C. Said assignee posts a substitute maintenance performance security or bond subject to release at the end of the initial 10-year period upon a further showing by the assignee that the storm water BMPs are, in the City's sole judgment, still reasonably effective.
3. This maintenance performance security or bond shall inure only to the benefit of the City to ensure the proper maintenance of the storm water BMPs.
4. This maintenance and performance security or bond may be issued on an annual basis, provided that there is no lapse in coverage.
5. The maintenance performance security bond amount shall be for 25% of the total cost of the overall permitted project unless otherwise specified by the City.

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161.13 CONSTRUCTION INSPECTION.

1. The applicant must notify the City in advance before the commencement of construction. Regular inspections of construction of the storm water BMPs shall be conducted by City or City's designated representative. Inspections will be conducted before any land disturbing activity begins, at the time of footing inspections, at the completion of the project; and prior to the release of financial securities. All inspections shall be documented and written reports prepared that contain the following information:

- A. The date and location of the inspection; and
- B. Whether construction is in compliance with the approved storm water management concept plan; and
- C. Variations, if any, from the approved storm water management concept plan.

2. If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions. No additional work shall proceed until any violations are corrected and all work previously completed has received approval by City.

3. After construction is completed, applicants are required to submit actual "as-built" drawings satisfactory to City for any storm water BMPs located on site. The drawings must show the final design specifications for all storm water BMPs and must be certified by a professional engineer. A final inspection by City is required before the release of the installation performance security or bond can occur.

4. Landscaping and stabilization shall be accomplished to prevent violation of City storm water requirements or impairment of BMPs. In addition, a landscaping plan must be submitted with the final as-built drawings describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect, landscape designer, or by the local soil and water conservation district, and must be approved prior to receiving a permit. This is by reference incorporated into the site plan review process.

161.14 MAINTENANCE AND REPAIR OF STORM WATER BMPS. The applicant or owner of every site or an assignee qualified pursuant to Section 161.12 shall be responsible for maintaining as-built storm water BMPs in an effective state as determined in the sole judgment of City ~~for 10 years from and after completion of construction~~ in perpetuity or until further redevelopment of the site.

1. **Maintenance and Repair Easement.** Prior to the issuance of any permit for development involving any storm water BMP, the applicant or owner of the site must execute a maintenance and repair easement agreement that shall be binding on all subsequent owners of land served by the storm water BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for periodic inspection by City or City's designee and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City storm water requirements. The easement agreement shall be recorded by City at the expense of the permit holder or property owners.

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2. **Maintenance Covenants.**

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A. Maintenance of all storm water BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded prior to the

storm water management final plan approval. The creation of these maintenance covenants are the responsibility of the property owner or their designated agent. 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 BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts.

B. The City, in lieu of a maintenance covenant, may (but is not required to) accept dedication of any existing or future storm water BMP to include City responsibility for maintenance and repair, provided that: the maintenance and repair of such element will not impose an undue burden on other City taxpayers who enjoy little if any benefit from the BMP; the BMP meets all the requirements of this chapter; and the dedication includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

3. **Requirements for Maintenance Covenants.** All storm water BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include (but are not limited to) removal of silt, litter, and other debris from all storm water treatment and conveyance facilities, including ponds, infiltration basins, rain gardens, catch basins, inlets, and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity responsible under a written maintenance agreement in a timely manner, as determined by City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water BMPs.

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4. **Inspection of Storm Water BMPs.** Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in storm water BMPs, and evaluating the condition of storm water BMPs.

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5. **Right of Entry for Inspection.** When any new storm water BMP is installed on private property, or when any new connection is made between private property and a public storm water management facility, sanitary sewer or combined sewer, the property owner shall grant to City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when City has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.

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6. **Records of Installation and Maintenance and Repair Activities.** Parties responsible for the operation and maintenance of storm water BMPs shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years or longer if the City Inspector deems it necessary. These records shall be made available to City during inspection of the facility and at other reasonable times upon request.

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7. **Failure to Maintain Storm Water BMPs.** If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, the City, after

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reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the storm water BMP becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the storm water BMP in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the storm water BMP in an approved manner. After proper notice, the City may assess, jointly and severally, the owners of the storm water BMP or the property owners or the parties responsible for maintenance under any applicable written agreement 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.

161.15 ENFORCEMENT AND PENALTIES.

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 City upon the advice and consent of the City Attorney or other counsel employed by City.
4. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
5. Occupancy permits shall not be granted until all storm water BMPs have been inspected and approved by City.

161.16 APPEAL. Administrative decisions by City staff and enforcement actions may be appealed by the developer or property owner 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 ordinary 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.

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

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