
CHAPTER 102
CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL AND POST-CONSTRUCTION STORM WATER
MANAGEMENT

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102.01 FINDINGS.

1. The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program (Program) administered by the Iowa Department of Natural Resources ("IDNR") requires that 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 Pleasant Hill (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.
2. The Program requires certain individuals engaged in construction activities (applicant or applicants) to submit an application to the IDNR for a State NPDES General Permit #2. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with a State NPDES General Permit #2 and a City COSESCO Permit and any other requirement of State or Federal law or administrative rule.
3. 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 (COSESCO) ordinance designed to achieve the following objectives:
 - A. Any person, firm, sole proprietorship, partnership, corporation, state agency or political subdivision ("applicant") required by law or administrative rule to apply to the IDNR for a State NPDES General Permit #2 shall also be required to obtain from the City a CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL permit (City COSESCO Permit) in addition to and not in lieu of the State NPDES General Permit #2; and
 - B. The City shall have responsibility for inspection, monitoring and enforcement procedures to promote applicants' compliance with State NPDES General Permits #2 and City COSESCO Permits.
4. No State or Federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its application, inspection, monitoring and enforcement responsibilities entirely by fees imposed on the owners of properties which are made subject to the Program by virtue of State and Federal law, and/or other sources of funding established by a separate ordinance.
5. Terms used in this chapter shall have the meanings specified in the Program.

102.02 APPLICATION PROCEDURE.

1. All persons required by law or administrative rule to obtain a State NPDES General Permit #2 from the IDNR are required to obtain a City COSESCO Permit.
2. Applications for City COSESCO Permits shall be made on forms approved by the City that may be obtained from the Building

Division.

3. An applicant for a City COSESCO Permit shall pay fees as follows:

- A. A fee at the time of application in the amount of \$150 plus \$20 per acre for sites over one acre.
- B. For each inspection required by this chapter, the applicant shall pay an inspection fee in the amount of \$45 per hour.
- C. Failure of the applicant to pay an inspection fee within thirty (30) days of billing shall constitute a violation of this chapter.

4. An applicant in possession of a State NPDES General Permit #2 issued by the IDNR shall immediately submit to the City two (2) full copies of the materials described below as a basis for the City to determine whether to issue a City COSESCO Permit:

- A. Applicant's plans, specifications and supporting materials previously submitted to the IDNR in support of applicant's application for the State NPDES General Permit #2;
- B. Applicant's authorizations issued pursuant to applicant's State NPDES General Permit #2; and
- C. A Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with this chapter.

5. Every SWPPP submitted to the City in support of an application for a City COSESCO Permit:

A. Shall comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES General Permit #2; and

B. Shall, if the applicant is required by law to file a Joint Application Form, PROTECTING IOWA WATERS, IOWA DEPARTMENT OF NATURAL RESOURCES AND U.S. ARMY CORPS OF ENGINEERS, comply with all mandatory minimum requirements pertaining to such applications; 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 or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, 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 #2 permit holder that the SWPPP complies with all requirements of this chapter and the applicant's NPDES General Permit #2.

6. Issuance by the City of a City COSESCO Permit shall be a condition precedent for the issuance of preliminary plat, site plan or City building permit approval.

7. For so long as a construction site is subject to a State NPDES General Permit #2 or a City COSESCO Permit, the applicant shall provide the City with current information as follows:

A. The name, address and telephone number of the person on site designated by the owner who is knowledgeable and experienced in erosion and sediment control and who will oversee compliance with the State NPDES General Permit #2 and the City COSESCO Permit;

B. The name(s), address(es) and telephone number(s) of the contractor(s) and/or subcontractors(s) that will implement each erosion and sediment control measure identified in the SWPPP.

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

8. Developers can transfer State NPDES General Permit #2 and the City COSESCO Permit responsibility to homebuilders, new lot owners, contractors and subcontractors. A copy of the transfer document shall be provided to the City. Absent such written confirmation of transfer of obligations, the developer remains responsible for compliance on any lot that has been sold.

9. Homebuilders, new lot owners, contractors and subcontractors which are co-permittees under an existing SWPPP shall provide written documentation indicating they are co-permittees including signatures by both the co-permittee and developer.

10. Upon receipt of an application for a City COSESCO Permit, the City shall either find that the application complies with this chapter and issue a City COSESCO Permit in accordance with this chapter, or that the application fails to comply with this chapter, in which case the City shall provide a bill of particulars identifying non-compliant elements of the application.

11. Prior to the issuance of the building permit, the lot owner shall provide written certification regarding their responsibility for

sediment and erosion control on the property as outlined in General Permit #2 and the SWPPP.

102.03 INSPECTION PROCEDURES.

1. All inspections required under this chapter shall be conducted by the Community Planning and Development Director or designee, hereinafter referred to as the "enforcement officer." Inspections by the enforcement officer may be scheduled or unannounced.
2. Any applicant that is subject to the terms of the COSESCO shall allow the City or an authorized representative of the City, upon the presentation of proper identification, to enter upon applicant's private property for inspection purposes.
3. Applicant shall notify the City when all measures required by applicant's SWPPP have been accomplished on-site, whereupon the City shall conduct an initial inspection for the purpose of determining compliance with this chapter, and shall within a reasonable time thereafter report to the applicant either that compliance appears to have been achieved, or that compliance has not been achieved, in which case the City shall provide a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within forty-eight (48) hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for taking corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter.
4. Construction shall not occur on the site at any time when the City has identified conditions of noncompliance.
5. Construction activities undertaken by an applicant prior to resolution of all discrepancies specified in the bill of particulars shall constitute a violation of this chapter.
6. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

102.04 STOP WORK ORDER.

1. Authority. Whenever the enforcement officer finds any work regulated by this chapter being performed in a manner either contrary to the provisions of this chapter or dangerous or unsafe, the enforcement officer is authorized to issue a stop work order.
2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
3. Unlawful Continuance. Any person who shall continue any work after having been served with a stop work order, except such work as the person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as stated in this chapter.

102.05 MONITORING PROCEDURES.

1. At a minimum, the enforcement officer will perform quarterly inspections. The quarterly inspections will be performed until the City receives a copy of the Notice of Discontinuation by the Iowa Department of Natural Resources for NPDES General Permit #2.
2. Any third party may also report to the City site conditions which the third party reasonably believes pose a risk of storm water discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2 and/or City COSESCO Permit. Permit holders found in noncompliance will be charged at a rate of \$50 per hour for the additional inspection. If the permit holder is found in compliance, the inspection fee will be waived.
3. Upon receiving a report pursuant to the previous subsections, the enforcement officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within forty-eight (48) hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in Section 102.06 below.
4. Unless a report is made to the enforcement officer pursuant to the previous subsections, the enforcement officer shall conduct at least one unannounced inspection during the course of construction to monitor compliance with the State NPDES General Permit #2 and the City COSESCO Permit. If the inspection discloses any significant noncompliance, the enforcement officer shall provide the applicant with a bill of particulars identifying the conditions of noncompliance. The applicant shall immediately commence corrective action and shall complete such corrective action within forty-eight (48) hours of receiving the City's bill of particulars. For good cause shown, the City may extend the deadline for completing corrective action. Failure to take corrective action in a timely manner shall constitute a violation of this chapter, whereupon the enforcement officer shall immediately commence enforcement actions specified in

Section 102.06 below.

5. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

102.06 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of § 364.22, Code of Iowa, and pursuant to Chapter 4 of this Code of Ordinances.

3. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

102.07 PERFORMANCE BOND.

1. In addition to the application for a City COSESCO Permit, the applicant may be required to post security for compliance with all requirements imposed by the State NPDES General Permit #2 and the City COSESCO Permit in such an amount as the City may deem necessary.

2. If the final plat is approved prior to the installation of public improvements, in accordance with Chapter 175.05.5A, a performance bond shall be required to cover the costs of the sediment and erosion control measures for the plat.

3. Acceptable forms of Performance Security include the following:

A. Performance Bonds;

B. Surety Bonds.

4. The application form signed by the applicant for a City COSESCO Permit shall include the following commitment by the applicant: "In addition to the performance security posted with this application, the undersigned applicant hereby agrees to defend, indemnify and hold the City harmless from any and all claims, damages or suits arising directly or indirectly out of any act of commission or omission by the applicant, or any employee, agent, assign or contractor or subcontractor of the applicant, in connection with applicant's State NPDES General Permit #2 and/or City COSESCO Permit."

5. Upon filing and acknowledgement of the Notice of Discontinuation by the Iowa Department of Natural Resources for NDPEs General Permit #2 and a final inspection by the City, the bond or any remaining funds shall be returned.

102.08 APPEAL.

Administrative decisions by City staff and enforcement actions of the enforcement officer may be appealed by the applicant to the City Council pursuant to the following rules:

1. The appeal must be filed in writing with the City Clerk within twenty (20) 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, Iowa Code, of the date, time and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A, Code of Iowa. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

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

102.09 TITLE.

This chapter shall be known as the "City of Pleasant Hill POST CONSTRUCTION STORM WATER MANAGEMENT Ordinance," may be cited as such and will be referred to herein as "this Chapter."

102.10 PURPOSE.

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 and NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System ("MS4") ("MS4 Permit"). The City of Pleasant Hill ("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. The purpose of this chapter is to comply with the MS4 Permit requirements and establish a set of water quality and quantity polices 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. 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.

102.11 WARNING.

No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

102.12 INTERPRETATION.

The foregoing statements of legislative intent shall govern and take precedence over any other language contained in this chapter.

102.13 DEFINITIONS.

For the purpose of this chapter, the following terms have or include the following meanings:

1. "Applicant" means person, firm or entity applying for a permit or development approval to develop, grade or construct any improvement within the corporate limits of the City of Pleasant Hill.
2. "Approval" means formal, written consent by the City Council or authorized representative of the City.
3. "Best Management Practices (BMPs)" means schedules of activities prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. Common BMPs are described in the Iowa Storm Water Management Manual and SUDAS.

The BMPs covered by are not meant to be a comprehensive list of acceptable BMPs.

4. "Drainage, Detention or Overland Flowable Easement" means a legal right granted by a property owner to a grantee allowing the use of private land for storm water management.
5. "National Pollutant Discharge Elimination System" is the program for issuing, modifying, revoking, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402 and 405) and the United States Code of Federal Regulations Title 33, Section 1317, 1328, 1342, 1345.
6. "Post-Construction Storm Water Management Plan" means a set of plans and specifications approved by the City Council during the approval of the site plan, Construction Drawing and/or Plat that defines the system of BMPs that are to be constructed and maintained on the site.
7. "Property" means land located in the City, whether or not improved with buildings or other structures.
8. "Property owner" means a person who, alone or with another person or other persons, holds the legal title to property; except, however, where property has been sold on contract to a person who has the present right to possess the property and the contract has

been filed for record in the Office of the County Recorder, the person so purchasing the property, whether alone or with another person or other persons, is the "property owner" and the person retaining bare legal title to the property as security for the balance of the purchase price.

9. "Regional Detention Facility" means a wet or dry detention basin which is designed to accept storm water runoff from two or more sites that are required to obtain an NPDES General Permit #2 and that otherwise complies with all City, State or Federal permit requirements as they apply to storm water management requirements for those sites.

10. "Storm water" means storm water runoff, snow melt runoff and surface runoff and drainage.

11. "Storm Water Pollution Prevention Plan (SWPPP)" is a plan as defined in the Iowa NPDES storm water general permit.

12. "SUDAS" means the current Standard Urban Design and Specifications Manual, as locally amended, that specifies the storm water guidelines and storm water controls deemed by SUDAS to meet the goals of the U.S. Environmental Protection Agencies NPDES permit program administered by the Iowa Department of Natural Resources.

102.14 POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN.

Every property owner or applicant required to have coverage under NPDES General Permit #2 shall design, install and maintain Post Construction Storm Water Management Plan (PCSWMP) facilities as approved by the City Council during the Site Plan, Construction Drawing and/or Platting process. An Iowa licensed Professional Engineer or Landscape Architect shall design PCSWMP facilities in conformance with the guidelines established in the Iowa Storm Water Management Manual and SUDAS.

PCSWMP facilities shall be designed with appropriate BMPs, such as detention and retention basins, grass swales, buffer strips, bio-retention, and other similar types of infiltration basins and riparian areas, shall cause downstream property owners, water courses, channels or conduits to receive storm water runoff from the proposed development site at a peak flow rate greater than that allowed by the standards in effect at the time of approval of the development. In order to ensure that the PCSWMP facilities are constructed in accordance with the approved design, the property owner or applicant shall provide to the City an as-built plan detailing dimensions and elevations as well as certification that the approved facilities were installed and working properly. The as-built plan shall be completed by an Iowa Licensed Professional Engineer or Landscape Architect and submitted to the City prior to the acceptance of any public improvements or issuance of any Certificate of Occupancy. At the discretion of the City, the property owner or applicant may satisfy the PCSWMP requirements by ensuring the conveyance of storm water discharge from the property to a regional detention facility.

102.15 MAINTENANCE.

It shall be the property owner's duty to ensure that the site is periodically inspected and maintained in accordance with the approved PCSWMP.

Periodic inspections shall be completed as needed and in no case less than one time per year. Inspections shall be documented and shall be retained by the property owner for at least three years. Copies of the inspection documentation shall be made available to the City upon request.

102.16 INSPECTIONS.

The City shall be permitted to enter and inspect any property with PCSWMP facilities subject to the regulation as often as necessary to determine compliance with this chapter. The City may conduct site visits at any time to determine compliance with the approved PCSWMP.

Additionally, the City may request that a property owner verify, through the preparation of an as-built plan completed by an Iowa Licensed Professional Engineer or Landscape Architect that the PCSWMP facilities contain appropriate capacities and operational characteristics as originally designed and approved. In the event that a site is found not to be in compliance with the PCSWMP, the City will communicate in writing, with the property owner a list of deficiencies that identifies the area or incident of non-compliance. The property owner shall have fourteen (14) days from the date of notice to provide a written response outlining the steps and implementation timelines for corrective action. The property owner shall have thirty (30) days from the date of notice to complete the corrective action necessary to bring the site back into compliance with the approved PCSWMP.

Following the review of the property owner's written response, if extenuating circumstances exist which makes implementation of the necessary corrective action difficult to complete within the specified time period, the City may grant, at its sole discretion, a reasonable extension of time to complete the corrective action. Failure of the property owner to allow access to the property, provide a written response or undertake corrective action shall constitute as a violation of this chapter.

102.17 CORRECTIVE ACTION BY CITY.

If the property owner fails to take corrective action, following notice prescribed for the service of civil process by the Iowa Rules of Civil Procedure, the City may do so by its own crews or by persons under its hire and assess against the property owner the City's cost therefor. Said costs shall include the salaries and benefits earned by the City employees during such corrective action, a charge for City machinery used and such other costs and expenses as the City actually incurred. To the extent allowed by Iowa law, such costs and expenses may be assessed against the property owner and collected in the same manner as a property tax.

102.18 RESPONSIBILITY.

The failure of City officials to observe or foresee hazardous or unsightly conditions, or to impose other or additional conditions or requirements, or to deny or revoke permits or approvals, or to stop work in violation of this chapter shall not relieve the property owners of the consequences of their actions or inactions or result in the City, its officers or agents being liable therefore or on account thereof, notwithstanding any provision with the NPDES General Permit #2 and any other requirements of State or Federal law or administrative rule.

102.19 VIOLATIONS.

Unless another penalty is expressly provided by this chapter for any particular provision or section, any person violating any provision of this chapter or any rule or regulation adopted herein by reference shall be subject to a civil penalty as set forth in the Schedule of Civil Penalties in Chapter 4 of this Code of Ordinances. Each day that a municipal infraction occurs and/or is permitted to exist constitutes a separate offense.

102.20 APPEAL.

Any person affected by a decision of the Community Development Department may request and shall be granted a hearing on the decision, as described in Chapter 101 section 101.09 of this Code of Ordinance.

(Ch. 102 - Ord. 707 - July 08 Supp.)