

## CHAPTER 158

# POST-CONSTRUCTION STORM WATER MANAGEMENT

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**158.01 PURPOSE.** The purpose of this chapter is to establish a set of water quality policies to provide reasonable guidance for the regulation of storm water runoff for the purpose of protecting water resources within the Volunteer Creek Watershed from degradation. The regulation of storm water runoff discharges from land development and other construction activities is essential in order to control and minimize runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with storm water runoff. These regulations are in the public interest and will prevent threats to public health and safety.

**158.02 DEFINITIONS.** For the purpose of this section certain words or phrases are defined as follows:

1. “Applicant” means a 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.
2. “Approval” means formal, written consent by the 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 *Iowa Statewide Urban Designs and Specifications* (SUDAS). The BMPs covered are not meant to be a comprehensive list of acceptable BMPs.
4. “Drainage, detention, or overland flowage easement” means a legal right granted by a landowner to a grantee allowing the use of private land for storm water management.
5. “National Pollutant Discharge Elimination System” (NPDES) 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, Sections 1317, 1328, 1342 and 1345.
6. “Post-Construction Storm Water Management Plan” (PCSWMP) means a set of plans and specifications approved by the Council or authorized representative during the approval of the site plan, construction drawing, and 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 legal title to property; 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 that is designed to accept storm water runoff from two or more sites and 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, snowmelt 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 Iowa Statewide Standard Urban Design and Specifications for Public Improvements.

13. “Iowa Storm Water Management Manual” means the current manual for BMPs for storm water management.

**158.03 POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN.** Every property owner or applicant in the Volunteer Creek Watershed shall design, install, and maintain Post-Construction Storm Water Management Plan (PCSWMP) facilities and/or practices as approved by the Council or authorized representative during the site plan, construction drawing, or platting process. A State-licensed professional engineer or landscape architect shall design PCSWMP facilities in conformance with the current guidelines established in the State *Storm Water Management Manual*, SUDAS, or other documents determined to be applicable to the City. PCSWMP facilities shall be designed with appropriate BMPs, such as grass swales, buffer strips, rain gardens, permeable paving, bio-retention and other similar types of infiltration basins, and riparian areas. The BMPs shall be designed with conservation sensitive design (CSD) strategies to improve water quality, reduce erosion, and reduce sediment loading. The BMPs shall promote continuity with and not negatively affect previously approved PCSWMPs that are upstream or downstream of the property owner’s or applicant’s property. 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 are operating properly. The as-built plans shall be completed by a State-licensed professional engineer or landscape architect and submitted to the City prior to the acceptance of any improvements or issuance of any improvements or issuance of any certificate of occupancy. The property owner or applicant may satisfy the peak flow rate requirements of the PCSWMP by ensuring the conveyance of storm water discharge from the property to the regional detention facility.

**158.04 MAINTENANCE.** It is 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 for at least three years. Copies of the inspection documentation shall be made available to the City upon request.

**158.05 INSPECTION.** The City shall be permitted to enter and inspect any property subject to regulation as often and 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 a State-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 to the property owner a list of deficiencies that identifies the area or incident of noncompliance. The property owner shall have 14 days

from the date of notice to provide a written response that outlines the steps and implementation timelines for corrective action. The property owner shall have 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 that make 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 to allow access to the property, provide a written response, or undertake corrective action shall constitute a violation of this chapter.

**158.06 CORRECTIVE ACTION BY CITY.** If the property owner fails to take corrective action in the time period prescribed in the previous section, 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 salaries and benefits earned by City employees during such corrective action, a charge for the City machinery used, and such other costs and expenses as the City actually incurred. To the extent allowed by State law, such costs and expenses may be assessed against the property owner and collected in the same manner as property taxes.

**158.07 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 approval, 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 for the same. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with the NPDES General Permit Number 2 and any other requirements of State or Federal law or administrative rule.

**158.08 VIOLATIONS.** 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 cost from a person who is determined by a court of competent jurisdiction to have violated this chapter.

**158.09 APPEAL.** Administrative decisions by City staff and enforcement actions of the enforcement officer may be appealed by the applicant to the board of adjustment pursuant to the following rules:

1. The appeal must be filed in writing with the City Clerk within five 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 applicant 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 shall notify the applicant and the enforcement officer by ordinary mail and shall give public notice in accordance with Iowa Code Annotated (ICA) Chapter 21 of the date, time, and place for the regular meeting of the Board of Adjustment at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four but not more than 20 days after 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 ICA Chapter 17A. 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 at City's expense.

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