

## ARTICLE VI. EROSION AND SEDIMENT CONTROL FOR CONSTRUCTION SITES

### Sec. 28-160 General

(a). Soil erosion contributes to the impairment of drainageways, increases road and storm sewer maintenance costs, contributes to the destruction and obstruction to traveled roadways creating a potential hazard for vehicular traffic, and contributes to contamination and degradation of land surfaces and streams, flooding and dusty conditions. This article establishes requirements in an effort to control erosion and sediment transport.

(b). Owners of certain construction sites are required, under rules contained in General Permit No. 2, Storm Water Discharge Associated with Industrial Activity for Construction Activities (“General Permit No. 2”), to obtain coverage through the Iowa DNR under that permit.

(c). Under its Municipal Stormwater National Pollution Discharge Elimination System permit, which permit is on file at the offices of the City Clerk and the City Engineer and is available for public inspection during regular office hours, the City is required to regulate, treat, and control stormwater discharges into the City’s stormwater drainage system. One provision of that permit requires the City to enforce the requirements of General Permit No. 2 jointly with the Iowa DNR.

(d). General Permit No. 2 and the document entitled “Summary Guidance, A Brief Guide to Developing Pollution Prevention Plans and Best Management Practices”, issued and administered by the Iowa DNR, are hereby adopted and by reference made part of this Section as if fully set forth herein. Any act these documents require or prohibit, is required or prohibited by this Section. Any future amendments, revisions, or modifications to these documents, incorporated herein, are intended to be made a part of this Section.

(e). This article also establishes requirements for grading, filling, fill material, and for obtaining Erosion Control Permits. These requirements include use of suitable fill material, stable slope construction, proper site drainage, and usability of public and private easements.

(f). Except as provided in Section 28-163, Minor Erosion Control Permit Required, no person shall engage in land-disturbing activities within the city unless they have received an Erosion Control Permit from the City.

### Sec. 28-161 Definitions

Wherever used in this article the terms listed below will have the meanings indicated. Words using the present tense shall include the future; the singular shall include the plural; the plural shall include the singular; the masculine gender shall include the feminine; the term “shall” is always mandatory, and the term “may” is permissive.

***Applicant*** means any individual, firm, corporation, association or partnership, or proprietor of land to undergo land-disturbing activities.

***Building Official*** means the Director of Community Development, or Building Trades Manager, or their designee.

***Certified professional erosion and sediment control specialist*** means a specialist in the area of soil erosion and sediment control as certified by the Soil and Water Conservation Society and the International Erosion Control Association.

***City*** means the City of Marshalltown, Iowa.

***City Council*** means the City Council of the City of Marshalltown, Iowa.

**City Engineer** means the official holding the position established by Section 2-34(a) of the Marshalltown Municipal Code or designee.

**Civil engineer** means a professional engineer licensed in the state of Iowa to practice civil engineering.

**Clearing and grubbing** means removal of unwanted growth, in the form of trees, wood, shrubs, brush, or stumps on a site.

**Design professional** means a licensed civil engineer or certified professional erosion and sediment control specialist.

**Design Standards Manual** means the 2008 edition of the Iowa Statewide Urban Design Standards for Public Improvements (SUDAS).

**Development** means the alteration of land from its existing state.

**Disturbed area** means the part of a site on which land-disturbing activities take place. All land area that is to be disturbed at any time during the project is to be counted in determining the disturbed area, even if part of the land will be stabilized before another part is disturbed.

**Erosion** means the wearing away of the land surface by running water, wind, ice, gravity, or other geological, natural, or man made agents.

**Erosion Control Officer** means the City Engineer, Building Official, or designee.

**Erosion Control Permit** means a Major Erosion Control Permit or a Minor Erosion Control Permit.

**Filling** means placing materials to effectively change the site contours. This shall include placing materials from the site itself, or from off site.

**Fill material** means soil, stone, rock, brick, portland cement or asphaltic concrete, or sand.

**Fill site** means land upon which fill materials are placed and which placement does not require a Sanitary Disposal Permit issued by the State of Iowa.

**Final stabilization** means that all land-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70 percent for the area has been established or equivalent stabilization measures have been employed.

**General Permit No. 2** means General Permit No. 2, Storm Water Discharge Associated with Industrial Activity for Construction Activities, as authored and administered by the Iowa DNR.

**Iowa DNR** means the Iowa Department of Natural Resources.

**Land-disturbing activities** means clearing, grading, excavating, filling, or removal of vegetation, paving, or buildings, exposing earthen material on a site.

**Major Erosion Control Permit** means a permit issued by the City of Marshalltown to engage in land-disturbing activities on a site with one acre or greater disturbed area.

**Minor Erosion Control Permit** means a permit issued by the City of Marshalltown to engage in land-disturbing activities on a site of greater than one-quarter acre and less than one acre disturbed area.

**Ordinance** means the portion of the City Municipal Code entitled, 'Erosion and Sediment Control for Construction Sites'.

**Responsible party** means one or more persons who have applied for or hold a City Erosion Control Permit, or who own, control, or perform work on a site.

**Sediment** means solid material, both natural and manmade, that is in suspension, has been transported, or has been moved from its origin by air, water, gravity, or ice and has been deposited by the action of water or wind.

**Site** means property where land-disturbing activities take place.

**Stabilization** or **stabilized** means vegetative cover with a density of 70 percent has been established, or equivalent stabilization measures have been employed.

**Standard Specifications** means the 2008 edition of the Iowa Statewide Urban Standard Specifications For Public Improvements (SUDAS).

**Stormwater drainage system** means all manmade facilities and structures and all natural watercourses that are owned by the City, or that are within a drainage easement owned by the

City, and that are used for collection, storage, treatment, and conveyance of stormwater from any area, through any area. This includes without limitation all stormwater facilities, canals, creeks, curb and gutter, dams, ditches, floodwalls, flumes, gulches, gullies, levees, ravines, siphons, streams, streets, and swales. For the purpose of illicit discharge regulation, any discharge to an area tributary to the stormwater drainage system shall be treated as a discharge to the stormwater drainage system. The stormwater drainage system does not include the Iowa River.

**Stormwater facilities** means anything built or used for the control of stormwater, including without limitation catch basins, channels, culverts, detention basins, energy dissipation structures, inlets, manholes, outlets, pipes and other conduits, retention basins, and roadways and gutters.

**Stormwater Pollution Prevention Plan** means a document conforming to the requirements therefore contained in General Permit No. 2 and this ordinance, prepared and certified by a design professional as defined herein.

**SWPPP** means Stormwater Pollution Prevention Plan.

### **Sec. 28162 Major Erosion Control Permit Required**

(a). Sites or common plans of development or sale that will result in a total disturbed area of one or more acres shall obtain a Major Erosion Control Permit prior to any land-disturbing activities.

(b). All Major Erosion Control Permits shall be issued by the City of Marshalltown Engineering Department upon approval of a completed *Application for Erosion Control Permit* on a form provided by the City. The application shall be signed by the title holder of the site, together with the applicant, if different from the title holder.

(c). Sites required to obtain an Erosion Control Permit shall comply with Section 28-169, Requirements for Sites Covered by the Iowa DNR General Permit No. 2.

(d). A Major Erosion Control Permit Application shall include the following:

1. A completed *Application for Erosion Control Permit* on a form provided by the City Engineering Department.
2. a SWPPP conforming to:
  - A. the requirements of this article, and the requirements of General Permit No.
  - B. If a SWPPP for the site has previously been submitted to the City and has not been modified, the applicant shall submit a signed and dated statement that the SWPPP has not been modified, in which case the SWPPP need not be resubmitted.
3. Payment of the permit fee.

(e). The permittee shall provide the Erosion Control Officer with all material submitted as part of a Notice of Discontinuation when such a notice is filed with the Iowa DNR.

### **Sec. 28-163 Minor Erosion Control Permit Required**

(a). Sites or common plans of development or sale that will result in a disturbed area of greater than one-quarter of an acre but less than one acre shall obtain a Minor Erosion Control Permit prior to any land-disturbing activity, except:

1. Filling or construction within floodplain limits as established by the Federal Emergency Management Agency and in the Marshalltown Floodplain Management Ordinance will require a separate additional permit under that ordinance, in addition to the permits required by this article.

2. For work that is specifically covered by a City Demolition Permit, Building Permit, NPDES Permit, or approved plan of improvements containing a SWPPP, a Minor Erosion Control Permit is not required. However, site filling and grading done pursuant to these approved permits and plans shall meet the requirements of this article.

3. The following activities are exempt from the requirements of this article:

- A. Crop production activities;
- B. Cemetery graves;
- C. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards;
- D. Total fill quantity of less than twenty-five cubic yards in a twelve month time period;
- E. Public improvements.

(b). All Minor Erosion Control Permits shall be issued by the City of Marshalltown Building Official upon approval of a completed *Application for Erosion Control Permit* on a form provided by the City. The application shall be signed by the title holder(s) of the site, together with the applicant, if different from the title holder(s).

(c). A Minor Erosion Control Permit Application shall include the following:

1. A completed *Application for Erosion Control Permit* on a form provided by the City.
2. A dimensioned drawing including the following:
  - A. Property address and legal description;
  - B. Property lines and any existing easements of record;
  - C. Limits of area of land-disturbing activities;
  - D. Existing and proposed ground elevations (two-foot maximum interval);
  - E. A SWPPP if required under section 28-166, SWPPP Required.
  - F. Other information as required by the City Building Official or City Engineer.

#### **Sec. 28-164 Permit Renewals**

(a). Erosion Control Permits shall be valid for a period of one year from the date of issuance and may be renewed as provided for herein. A renewal application shall include the following:

1. A completed *Application for Erosion Control Permit Renewal* on a form provided by the City.
2. Payment of the renewal fee;
3. Any information required in 28-162 (d) 2 (for a Major permit) or 28-163 (c) 2 (for a Minor permit) if it has changed. A Major permit renewal shall include a certification by the design professional (as defined herein) that all changed conditions are included in the renewal application.

(b). The City shall revoke an Erosion Control Permit or decline renewal if unacceptable materials are being deposited at the site, or if the permittee has failed to comply with any of the regulations set forth in this article, or any requirement of law, statute or regulation.

#### **Sec. 28-165 Filling Requirements**

(a). Clearing and grubbing shall be performed according to Part 3 of Section 2010 of the Standard Specifications, except as provided in this article.

(b). Fill material shall be placed according to the SWPPP as accepted by the city.

(c). Interim filling during construction shall be placed in a safe manner. Slope stabilization, inspection and maintenance of erosion control, and soil stabilization where work has been suspended shall be according to the Design Standards Manual.

(d). Finish grading shall be according to Part 3 of Section 2010 of the Standard Specifications.

(e). Finish slopes shall not exceed a 3:1 ratio on any slope facing and terminating within 15 feet of a property line.

(f). Unacceptable Fill Materials.

1. Fill materials shall not include hazardous waste, synthetic material, metal, and organic material other than natural topsoil incidental to excavation except as noted below. Concrete, brick, tile, and other manufactured inert material shall not be greater than 18" in its greatest dimension. Asphalt paving material shall not be used for bank stabilization or where the final location will be below the known water table.

2. Trees may be buried within the site they originate from, provided they are not buried within structural footprints or in earthwork providing structural support, such as for building foundations and roadways. Trees shall not be placed in the trench backfill for sewers, culverts, and other underground utilities. Trees shall not be imported onsite from offsite for use as fill.

#### **Sec. 28-166 SWPPP Required**

(a). Sites with land-disturbing activities shall fall into one of two categories as determined by the City Engineer as set forth herein below:

1. Sites with a disturbed area less than one acre shall not require submittal of a SWPPP. However, the owner of a site is required to plan and implement erosion control measures as described in the brochure "Erosion Control for Small Site Development". The City Engineering and Building Departments shall make this brochure available. The City Engineer may require an acceptable SWPPP for sites with a disturbed area less than one acre in cases warranted by site conditions. Such site conditions may include, but are not limited to:

A. Site contains slopes of 9 percent or greater;

B. Site is adjacent to a water body or open drainage channel;

C. The site has been identified as having severe erosion or as creating a significant impact on adjacent properties, water bodies, or open drainage channels due to erosion and sediment deposition.

2. Sites with a disturbed area greater than or equal to one acre shall require an acceptable SWPPP meeting the requirements of this article, certified by a design professional, and approved by the City Engineer.

(b). The SWPPP must be reviewed and approved by the City Engineer prior to the commencement of land-disturbing activities.

(c). The City's acceptance of a SWPPP does not constitute approval of Design Standards Manual exceptions unless specifically requested and approved by the City Engineer.

## **Sec. 28-167 SWPPP Requirements**

(a). Every SWPPP submitted to the City in support of an application for a Major Erosion Control Permit:

1. shall contain complete 24-hour contact information for the site owner and the person in responsible charge of providing and maintaining sedimentation and erosion control for the site. The permittee shall inform the Erosion Control Officer within seven calendar days of any change in this contact information.
2. shall comply with all current minimum mandatory requirements for SWPPPs promulgated by the Iowa DNR in connection with General Permit No. 2, including those published as Summary Guidance for General Permit No. 2 by the Iowa DNR. The City Engineer may develop policies modifying these requirements for sites with a disturbed area less than one acre.
3. shall comply with all other applicable state or federal permit requirements in existence at the time of application.
4. shall include a drainage plan prepared according to the Design Standards Manual. The drainage plan shall be accompanied by a drainage report prepared according to the City Code Chapter 28 Article IV Storm Water. This Code shall be available in the City Engineering Department. The drainage report shall at a minimum demonstrate the design of proposed grading, erosion, and sediment control if constructed per plan is not expected to adversely impact adjacent properties.
5. shall be prepared by a design professional as defined herein; and
6. shall include within the SWPPP a signed and dated certification by the person preparing the SWPPP that the SWPPP complies with all requirements of this Section.

(b). The SWPPP shall be modified by a design professional (as defined herein) as required in General Permit No. 2. Any modification of a SWPPP shall meet the requirements above.

## **Sec. 28-168 SWPPP Review and Approval Procedure**

(a). The applicant shall submit a SWPPP for the site, meeting the requirements established in the Design Standards Manual, to the City Engineer for review and approval, as follows:

1. The City Engineer shall review the submittal for compliance with the requirements of a SWPPP as set forth in the Design Standards Manual. Following the review, the City Engineer may return comments to the design professional.
2. Following receipt of comments from the City Engineer, the applicant shall provide a revised submittal to the City Engineer in accordance with any requested revisions.
3. The City Engineer or Building Official may require supporting documentation as needed to demonstrate conformance with these requirements. Issuance of an Erosion Control Permit may be delayed pending receipt of the documentation.
4. If the submittal is complete, and meets the requirements as set forth herein, the City Engineer shall approve the plan.

## **Sec. 28-169 Requirements for Sites Covered by Iowa DNR General Permit No. 2**

(a). The City shall not allow any land-disturbing activity on a site for which coverage under General Permit No. 2 is required, nor shall the City issue any permit, authorization, or license allowing such activity, until the site owner has obtained coverage for the site under General Permit No. 2 from the Iowa DNR.

(b). Any responsible party who is required to obtain, or has obtained, coverage under General Permit No. 2 shall comply with all the requirements of General Permit No. 2. Failure to do so is a violation of this Section.

1. Completion of work shown in a Stormwater Pollution Prevention Plan submitted under the provisions of General Permit No. 2 is a requirement of General Permit No. 2 and failure to complete such work is a violation of this Section.

(c). For sites covered under General Permit No. 2 where the ownership changes, the Enforcement Officer must be notified of the title transfer within 30 days, except in the case of single-lot sales, which shall be recorded on the SWPPP. The new owner shall be subject to all terms and conditions of the Erosion Control Permit. A copy of the notice of transfer that was sent to the Enforcement Officer shall be included in the SWPPP. For sites that are part of a larger common plan of development such as a housing or commercial development project, if a permittee transfers ownership of all or any part of property subject to an Erosion Control Permit, both the permittee and transferee shall be responsible for compliance with the provisions of General Permit No. 2 and the Erosion Control Permit for that portion of the project which has been transferred including when the transferred property is less than one acre in area. If the new owner agrees in writing to be solely responsible for compliance with the provisions of General Permit No. 2 and the Erosion Control Permit for the property which has been transferred, then the existing permittee shall be relieved of responsibility for compliance with General Permit No. 2 and the Erosion Control Permit for the transferred property, from and after the date the transfer of responsibility is attached to the SWPPP.

## **Sec 28-170 Inspection, Notice to Comply, and Notice of Violation**

(a). The Erosion Control Officer may inspect the site in response to reports from third parties or at other times, at the Erosion Control Officer's discretion.

(b). The Erosion Control Officer may issue a Notice to Comply to the responsible party or parties, describing any problems and specifying a date and time by which compliance must be achieved.

1. The Erosion Control Officer may modify a Notice to Comply and may authorize, in writing, an extension to the specified date and time by which compliance must be achieved.  
2. Failure to achieve compliance by the specified date and time is a violation of this Section.

(c). The Erosion Control Officer shall, upon determination of any violation of this Section, issue a Notice of Violation in writing to the responsible party or parties, indicating the nature of the violation and ordering the action necessary to correct it.

1. The Notice of Violation may:  
A. order the discontinuance of any illegal work, specifying a date and time for such discontinuance; and

B. require the repair and cleanup of any damage done due to failure to comply with General Permit No. 2, specifying a date and time for completion of repair and cleanup; and

C. order the withholding of any building or occupancy permits for the site, and

D. order the discontinuance of any or all work at the site, including at the Erosion Control Officer's discretion work not directly related to the cause and prevention of erosion and sedimentation, except work necessary to achieve compliance and to repair and clean up damage, specifying a date and time for such discontinuance to commence and conditions for such discontinuance to cease.

2. Failure to comply with any order in a Notice of Violation is an additional violation. Each day of such failure constitutes a separate violation.

3. The Erosion Control Officer may modify a Notice of Violation and may authorize, in writing, an extension to the specified dates and times therein.

4. The Notice of Violation shall, where necessary or appropriate, recommend to the City Attorney the institution of legal or equitable actions that may be required for the enforcement of this Section.

(d). Communication to a responsible party's employee, partner, attorney, agent, contractor, or subcontractor shall be regarded as communication to the responsible party for the purpose of this section.

(e). Communication to one responsible party shall be regarded as communication to each responsible party for the purpose of this section.

#### **Sec. 28-171 Powers of Authority for Inspection**

(a). Right of Entry. The City Engineer or Building Official and authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The applicant, owner, or titleholder shall be deemed to have consented to such entry by submission of an application for any permit or plan contemplated in this article. Barring or delaying such inspection is a violation of this section.

(b). The Erosion Control Officer shall have access to and be able to copy any records that must be kept under the conditions of General Permit No. 2 within three business hours, where a business hour is any hour between 8:00 AM and 3:30 PM on a non-holiday weekday.

#### **Sec. 28-172 Repair and Clean-up of Damage**

(a). For any site, whether or not covered by an Erosion Control Permit or other stormwater discharge permit, the City may clean up eroded sediment or tracked soil deposited on public property if:

1. corrective action has not been completed within 24 hours or within an extended deadline granted in writing by the City; or

2. in the judgment of the City Engineer, damage to the environment is ongoing and prompt corrective action would be intended to reduce such damage.



(b). If the City cleans up such material deposited off site, the City Engineer will invoice the responsible party or parties for the City's actual costs including overhead, which may be recorded as an assessment against the property and constitute a lien thereon.

(c). Failure to pay an invoice under this section within 30 days shall constitute a violation of this Section.

#### **Sec. 28-173 ENFORCEMENT**

(a). Violation of any provision of this ordinance may be enforced by civil action including an action for injunctive relief.

(b). 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 ordinance.

(c). Violation of any provision of this ordinance may also be enforced as a municipal infraction within the meaning of Iowa Code 364.22, pursuant to Article 1, General Provisions of the Marshalltown Municipal Code.

#### **Sec. 28-174 APPEALS**

Anyone claiming to be aggrieved by any determination made by the Erosion Control Officer may within 20 days of the date of such determination appeal to the City Manager or designee and in writing state his or her reasons for requesting such order to be rescinded or modified. The City Manager or designee shall review the determination of the Erosion Control Officer, and if reasonable grounds exist, shall modify, withdraw or order compliance with said determination. Anyone claiming to be aggrieved by the determination made by the City Manager or designee shall have such rights of appeal as provided by the law.

#### **28-175 Fees Established**

The City Council may establish fees by resolution for permit applications, permit renewal applications, inspections, and for the review and processing of documents necessitated by this article. When such fees are established a submittal shall not be considered unless the appropriate fee has been submitted to the City.