

ORDINANCE NO. 008-24

AN ORDINANCE REPEALING CHAPTER 71 OF THE MUNICIPAL CODE,
EROSION AND SEDIMENT CONTROL FOR CONSTRUCTION SITES, AND
ENACTING A NEW CHAPTER 71 IN ITS PLACE TO INCLUDE UPDATED
STANDARDS AND REVIEW AND ENFORCEMENT PROCESSES FOR
EROSION CONTROL PERMITS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA,
as follows:

Section 1. Chapter 71 of the Cedar Rapids Municipal Code is hereby repealed and in its place a new Chapter 71 is enacted as follows:

“CHAPTER 71 – EROSION AND SEDIMENT CONTROL FOR CONSTRUCTION SITES

71.01 – GENERAL PROVISIONS.

- (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 Chapter establishes requirements 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 Construction Activities ("General Permit No. 2"), to obtain coverage through the Iowa Department of Natural Resources ("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 Chapter 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 71.04, 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.

- (g) For construction activities performed under a National Pollutant Discharge Elimination System (NPDES) permit the city enforces the requirements jointly with the Iowa DNR in the same manner as construction activities performed under a General Permit No. 2. All references to General Permit No. 2 made below also apply to activities conducted under any NPDES General permit.

71.02 – DEFINITIONS.

- (a) Wherever used in this Chapter, 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.
1. **Applicant:** Any individual, firm, corporation, association, or partnership, that has a property interest in, or holds title to, land to undergo land-disturbing activities.
 2. **Certified Professional in Erosion and Sediment Control:** A credentialed specialist in soil erosion and sediment control.
 3. **City:** The City of Cedar Rapids, Iowa.
 4. **City Council:** The City Council of the City of Cedar Rapids, Iowa.
 5. **City Engineer:** The position established by Section 5.09 of the Cedar Rapids Municipal Code.
 6. **City Public Works Official:** City Stormwater Official, or designee.
 7. **City Stormwater Official:** Staff designated to enforce this Chapter.
 8. **Civil Engineer:** A professional engineer licensed in the State of Iowa to practice civil engineering.
 9. **Clearing and grubbing:** Removal of unwanted growth, in the form of trees, wood, shrubs, brush, or stumps on a site.
 10. **Design professional:** A Civil Engineer or Certified Professional in Erosion and Sediment Control.
 11. **Design Standards:** The current engineering design standards as adopted by the City Council.
 12. **Development:** The improvement of land from its existing state.
 13. **Disturbed area:** The part of a site on which land-disturbing activities take place, which includes all land area that is to be disturbed at any time during the project, even if part of the land will be stabilized before another part is disturbed.
 14. **Director:** The Public Works (PW) Director.
 15. **Erosion:** The wearing away of the land surface by running water, wind, ice, gravity, or other geological, natural, or man-made agents.
 16. **Erosion control permit:** A major or minor erosion control permit.

17. **Fill material:** Soil, stone, rock, brick, portland cement or asphaltic concrete, or sand.
18. **Fill site:** Land upon which fill materials are placed and which placement does not require a Sanitary Disposal Project Permit issued by the State of Iowa.
19. **Filling:** Placing materials to effectively change the site contours, which includes placing materials originating on or off-site.
20. **Final stabilization:** Completion of all land-disturbing activities at the site, and establishment of a uniform perennial vegetative cover with a density of 70 percent for the area or employment of equivalent stabilization measures.
21. **General Permit No. 2:** An NPDES permit for Storm Water Discharge Associated with Construction Activities, as administered by the Iowa DNR.
22. **Land-disturbing activities:** Construction activity associated with development including, but not limited to, clearing, grading, excavating, filling, compacting, paving, buildings, or exposing earthen material on a site.
23. **Major erosion control permit:** A permit issued by the City to engage in land-disturbing activities on a site with a disturbed area of one or more acres.
24. **Minor erosion control permit:** A permit issued by the City to engage in land-disturbing activities on a site with a disturbed area greater than one quarter acre and less than one acre, and all new single-family dwellings.
25. **National Pollutant Discharge Elimination System (NPDES) Permit:** Any of the general surface water permits required by the Iowa DNR.
26. **Responsible party:** 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.
27. **Sediment:** Solid material, both natural and man-made, 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.
28. **Site:** Property where land-disturbing activities occur.
29. **Soil Quality Management Plan:** A method selected from the Iowa Stormwater Management Manual or Topsoil Method as defined herein. The Soil Quality Management Plan is indicated on the Major or Minor Erosion Control Permit Application and approved by the Director or designee.
30. **Stabilization or stabilized:** Establishment of vegetative cover with a density of 70 percent, or employment of equivalent stabilization measures.
31. **Standard Specifications:** The current construction specifications as adopted by the City Council.
32. **Stormwater drainage system:** The system of publicly owned or operated rivers, creeks, lakes, and manmade conveyance structures within the City through which or into which stormwater runoff, surface water, or subsurface water is conveyed or deposited.

33. **Stormwater facilities:** 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.
34. **Stormwater Pollution Prevention Plan (“SWPPP”):** A document identifying and describing potential sources of pollution that may affect stormwater quality discharges from a site and all measures that will be implemented on-site to control stormwater discharge pollution, which conforms to the requirements in General Permit No. 2 and this Chapter, prepared and certified by a design professional as defined herein.
35. **Topsoil:** As defined in the current version of the Iowa Department of Natural Resources National Pollutant Discharge Elimination System General Permit No. 2.
36. **Topsoil Method:** Preserving, stockpiling, and restoring pre-development topsoil (as defined herein) to an average depth of 4 inches. Sites may be subject to soil testing for performance data collection.

71.03 – 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 Public Works Department upon approval of a completed major erosion control permit application on a form provided by the City. The application shall be signed by the title holder of the site, as well as the Applicant, if different from the title holder.
- (c) Sites required to obtain an erosion control permit shall comply with Section 71.10, Requirements for Sites Covered by the Iowa DNR General Permit No. 2, herein.
- (d) A major erosion control permit application shall include the following:
 1. A completed major erosion control permit application on a form provided by the City Engineering Department.
 2. A SWPPP conforming to the requirements of this Chapter, and the requirements of General Permit No. 2. 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.
 4. Indication of a Soil Quality Plan to be implemented on site.
 - a) If the site is a residential development with lots to be sold after public improvements are constructed then a Soil Quality Plan need not be indicated on the Major Erosion Control Permit.
 - b) The residential development must still comply with all other applicable portions of Chapter 72.

- (e) Major erosion control permits for publicly funded improvements shall be issued by the City Stormwater Official upon approval of a completed major erosion control permit application.
- (f) The permittee shall provide the City Stormwater Official with all material submitted as part of a Notice of Discontinuation when such a notice is filed with the Iowa DNR.

71.04 – 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 acre, but less than one acre and all new single-family dwellings shall obtain a minor erosion control permit prior to any land-disturbing activity.
- (b) Filling or construction within floodplain limits as established by the Federal Emergency Management Agency and in the Cedar Rapids Floodplain Management Ordinance will require a separate additional permit under that ordinance, in addition to the permits required by this Chapter.
- (c) All minor erosion control permits shall be issued by the City Stormwater Official upon approval of a completed application for an 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).
- (d) Minor erosion control permits for publicly funded improvements shall be issued by the City Stormwater Official upon approval of a completed minor erosion control permit application.
- (e) A minor erosion control permit application shall include the following:
 - 1. A completed minor erosion control permit application on a form provided by the City.
 - 2. Payment of the permit fee.
 - 3. Indication of a Soil Quality Management Plan to be implemented on site.
 - 4. Submission of any transfer agreement for partial or complete ownership of the General Permit No. 2 provisions. If complete ownership of the General Permit No. 2 provisions is transferred, then the entity accepting ownership must obtain all required permits and submit all required documents.
 - 5. Submission of a SWPPP to accompany a copy of the owner's individual NPDES General Permit No. 2, if the new owner has agreed in writing to be solely responsible for compliance with the provisions of the General Permit No. 2 as referenced in Section 71.07.
 - 6. 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 (2-foot maximum interval);
 - e) Proposed sediment controls description and placement;

- f) Concrete washout facility;
- g) Rock entrance drive;
- h) Display future lot drainage design;
- i) Other information as required by the Public Works Official.

71.05 PERMIT EXEMPTIONS.

The following activities are exempt from the requirements of this Chapter:

- 1. Crop production activities;
- 2. Cemetery graves;
- 3. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards;
- 4. Total fill quantity of less than 25 cubic yards in a 12-month time period;

71.06 – PERMIT RENEWALS.

- (a) Erosion control permits shall be valid for the time period selected and may be renewed as provided for herein. A renewal application shall include the following:
 - 1. A completed erosion control permit renewal application on a form provided by the City;
 - 2. Payment of the renewal fee;
 - 3. Any information required in Section 71.03(d)(2) (for a major permit) or 71.04(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 deny 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 Chapter or any requirement of law, statute, or regulation.

71.07 – FILLING REQUIREMENTS.

- (a) Clearing and grubbing shall be performed according to the Standard Specifications except as provided in this Chapter.
- (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.

- (d) Finish grading shall be according to 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 inches 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.

71.08 – SWPPP REQUIRED.

- (a) The City Stormwater Official shall classify sites with land-disturbing activities into one of the following three categories:
 - 1. Individual lots not part of a larger development disturbing 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 permit application. The City Stormwater Official 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. Individual lots disturbing less than an acre associated with a larger development retaining a General Permit No. 2 where the new owner of the lot has agreed in writing to be solely responsible for compliance with the provisions of the General Permit No. 2 shall submit a SWPPP to accompany their individual General Permit No. 2 for that lot.
 - 3. Sites with a disturbed area greater than or equal to one acre shall require an acceptable SWPPP meeting the requirements of this Chapter, certified by a design professional.
- (b) The SWPPP must be reviewed and approved by the City Stormwater Official prior to the commencement of land-disturbing activities.
- (c) The City's acceptance of a SWPPP does not constitute approval of exceptions to Design Standards unless specifically requested and approved.

71.09 – SWPPP REQUIREMENTS.

- (a) Every SWPPP submitted to the City in support of a major erosion control permit application:
1. Shall contain complete 24-hour contact information for the site owner and the person in charge of providing and maintaining sedimentation and erosion control for the site. The permittee shall inform the City Stormwater Official within 7 calendar days of any change in this contact information.
 2. Shall comply with all current minimum mandatory requirements for a SWPPP 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 Stormwater Official 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.
 5. Shall include a drainage plan prepared according to the Design Standards. The drainage plan shall be accompanied by a drainage report. The drainage report shall at a minimum demonstrate that the design of proposed grading, erosion, and sediment control, if constructed per plan, is not expected to adversely impact adjacent properties.
 6. Shall be prepared by a design professional as defined herein;
 7. Shall include a signed and dated certification by the person preparing the SWPPP that the SWPPP complies with all requirements of this section; and
 8. Shall provide phased erosion control plans for the following development categories:
 - a) Commercial/Industrial Development
 - 1) Grading Phase
 - 2) Construction Phase
 - 3) Final Stabilization Phase
 - b) Residential Development
 - 1) Grading Phase
 - 2) Infrastructure Phase
 - 3) Lot Development Phase (Final Stabilization Phase)
- (b) The SWPPP shall be modified by a design professional (as defined herein) as required in General Permit No. 2. Any modification of the SWPPP shall meet the requirements above.
- (c) The applicant, or a designated third party, shall be required to utilize the interactive website provided by the City to retain SWPPP documents, document weekly SWPPP inspections, and record all land-disturbing activity, sediment/erosion control practices, and good housekeeping practices.

71.10 – SWPPP REVIEW AND APPROVAL PROCEDURE.

- (a) The applicant shall submit a SWPPP for the site, meeting the requirements established in the Design Standards, to the City Stormwater Official for review and approval.
- (b) The City Stormwater Official shall review the submittal for compliance with the requirements of a SWPPP as set forth in the Design Standards. Following the review, the City Stormwater Official shall return comments, if any, to the design professional.
- (c) Following receipt of comments, the applicant shall provide a revised submittal in accordance with any requested revisions.
- (d) The City Stormwater 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.
- (e) If the submittal is complete, and meets the requirements as set forth herein, the City Stormwater Official shall approve the plan.

71.11 – 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.
- (c) Completion of work shown in a SWPPP 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.
- (d) For sites covered under General Permit No. 2 where the ownership changes, the City Stormwater Official 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 City Stormwater Official shall be included in the SWPPP.
 - 1. 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.
 - 2. 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.

71.12 – INSPECTION, NOTICE TO COMPLY, AND NOTICE OF VIOLATION.

- (a) The City Stormwater Official may inspect the site in response to reports from third parties or at any time, at the City Stormwater Official's discretion.
- (b) The City Stormwater Official 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 City Stormwater Official 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 City Stormwater Official 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;
 - 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;
 - 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 City Stormwater Official'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 City Stormwater Official 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.
 - 5. The notice of violation shall be filed with the County Recorder's Office.
- (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.

71.13 – POWERS OF AUTHORITY FOR INSPECTION.

- (a) **Right of Entry.** The City Stormwater 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 Chapter. 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 Chapter. Barring or delaying such inspection is a violation of this section.
- (b) The City Stormwater Official shall have access to and be able to copy any records that must be kept under the conditions of General Permit No. 2 within 3 business hours, where a business hour is any hour between 8:00 a.m. and 3:30 p.m. on a non-holiday weekday.

71.14 – REPAIR AND CLEAN-UP OF DAMAGE.

- (a) For any site, whether 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 Stormwater Official, 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 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.

71.15 – ENFORCEMENT.

- (a) Violation of any provision of this Chapter may be enforced by civil action, including an action for injunctive relief.
- (b) Violation of any provision of this Chapter may also be enforced as a municipal infraction within the meaning of Iowa Code 364.22, pursuant to Chapter 1, General Provisions of the Cedar Rapids Municipal Code.

71.16 – APPEALS.

- (a) Anyone claiming to be aggrieved by any determination made by the City Stormwater Official may within 20 days of the date of such determination appeal to the Director or designee, and

in writing state their reasons for requesting such order to be rescinded or modified. The Director or designee shall review the determination of the City Stormwater Official, and if reasonable grounds exist, shall modify, withdraw, or order compliance with said determination.

- (b) Anyone claiming to be aggrieved by the determination made by the City shall have such rights of appeal as provided by the law.

71.17 – 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 Chapter. When such fees are established, a submittal shall not be considered unless the appropriate fee has been submitted to the City.”

Section 2. It is the intention of the Council that each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and, if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that provision affected by such decision.

Section 3. All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

Section 4. The changes as provided in this Ordinance shall be made a part of the replacement pages of the Cedar Rapids Municipal Code and made a part of said Code as provided by law.

Section 5. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Introduced this 27th day of February, 2024.

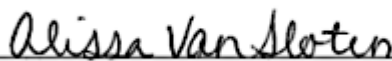
Passed this 12th day of March, 2024.

Voting: Council member Olson (Scott) moved the adoption of the ordinance; seconded by Council member Todd. Adopted, Ayes, Council members Hoeger, Maier, Olson (Scott), Olson (Tyler), Overland, Todd, Vanorny and Mayor O'Donnell.



Tiffany D. O'Donnell, Mayor

Attest:



Alissa Van Sloten, City Clerk