

EXHIBIT A

CHAPTER 170

POST CONSTRUCTION STORM WATER MANAGEMENT

170.01 TITLE. This chapter shall be known as the “Clive Post Construction Storm Water Management Ordinance,” may be cited as such and will be referred to herein as “this chapter.”

170.02 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 an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System (“MS4”) (“MS4 Permit”). The City of Clive (“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 policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. The regulation of stormwater runoff discharges from land development and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion and non-point source pollution associated with stormwater runoff, is in the public interest and will prevent threats to public health and safety.

170.03 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.

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

170.05 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 Clive.

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 Stormwater Management Manual* and *SUDAS*. The BMPs covered by 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 property owner to a grantee allowing the use of private land for stormwater 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 United States Code of Federal Regulations Title 33, Section 1317, 1328, 1342 and 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(s) which are designed to accept storm water runoff from tow 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. “Stormwater” means storm water runoff, snow melt runoff and surface runoff and drainage.
11. “Stormwater Pollution Prevention Plan (SWPPP)” is a plan as defined in the Iowa NPDES stormwater general permit.
12. “SUDAS” means the current *Standard Urban Design and Specifications Manual*, as locally amended, that specifies the stormwater guidelines and stormwater 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.

170.06 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 Stormwater Management Manual* and *SUDAS*. PCSWMP facilities shall be designed with appropriate BMP's, such as detention and retention basins, grass swales, buffer strips, bio-retention and other similar types of infiltration basins and riparian areas, that will convey drainage through the property to one or more treatment areas such that no development 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.

170.07 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 (1) time per year. Inspections shall be documented and shall be retained by the property owner for at least three (3) years. Copies of the inspection documentation shall be made available to the City upon request.

170.08 INSPECTIONS. The City shall be permitted to enter and inspect any property with PCSWMP facilities subject to this 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 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 a violation of this ordinance.

170.09 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 therefore. Said costs shall include the salaries and benefits earned by 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.

170.10 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 of this ordinance, every applicant bears final and complete responsibility for compliance with the NPDES General Permit #2 and any other requirements of state or federal law or administrative rule.

170.11 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.

170.12 APPEAL. Any person affected by a decision of the Construction Services Administrator or Engineering Services Administrator may request and shall be granted a hearing on the decision, as described in Chapter 160 of this Code of Ordinance.