CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: August 19, 2019

ITEM:

Establishment of an Administrative Policy for Inspection and Enforcement of Storm Water Pollution Prevention Activities for Construction and Building Sites in West Des Moines.

RESOLUTION: Approval of Administrative Policy for Inspection and Enforcement of Storm Water Pollution Prevention for Construction Sites.

FINANCIAL IMPACT: Undetermined.

BACKGROUND:

Pursuant to the Iowa Department of Natural Resources (DNR) and the United States Environmental Protection Agency (EPA) regulations, best management practices shall be used for storm water pollution prevention, erosion control and sediment control for work on construction sites in the City. The City and responsible parties can be subject to possible state and federal fines for storm water pollution prevention violations and non-compliance.

The purpose of this administrative policy is to provide standard operating procedures (SOP's) for City inspection and enforcement of storm water pollution prevention activities on construction and building sites and to recover the costs when City re-inspections are necessary.

OUTSTANDING ISSUES: None.

RECOMMENDATION:

City Council adopt the Administrative Policy for inspection and enforcement of storm water pollution prevention activities in the City of West Des Moines.

Lead Staff Member: Brian J. Hemesath, P.E., City Engineer

STAFF REVIEWS

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Services		
Date Reviewed	July 8, 2019		
Recommendation	Yes	No	Split

ATTACHMENTS:

Exhibit I – Administrative Policy
Attachment A – 2019 Stormwater Management Inspection Fees
Attachment B - Stop Work Order
Exhibit II - Resolution

CITY OF WEST DES MOINES **ADMINISTRATIVE POLICY 5-11**
OFFICE OF ENGINEERING SERVICE

INSPECTION AND ENFORCEMENT OF STORM WATER POLLUTION PREVENTION FOR CONSTRUCTION SITES

1.0 Purpose

1.1 The purpose of this administrative policy is to provide standard operating procedures (SOP's), processes, and actions for City Staff inspecting and enforcing storm water pollution prevention activities for construction sites in West Des Moines, Iowa. The basis for storm water pollution prevention on construction sites is to control and reduce additional pollutants and discharges reaching, entering and accumulating in drainage systems, streams, rivers, lakes and other waters for environmental, safety, and health quality as determined by the U.S. Clean Water Act.

1.2 All work on construction sites in the City shall use best management practices for storm water pollution prevention, erosion control, and sediment control per the City's Municipal Separate Storm Sewer System (MS4) permit, Construction Site Erosion and Sediment Control Ordinance (COSESCO), local, state, and federal laws, regulations, and policies.

1.3 Definitions:

1.3.1 *Storm Water Pollution Prevention:* Not allowing or controlling erosion, sediment, pollution, and other debris from exiting a construction site, into a drainage system, or into any waterway.

1.3.2 *Best Management Practices (BMP's):* Schedule of activities, prohibitions of practices, maintenance procedures, and other management procedures to prevent or reduce the pollution of waters of the United States. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

1.3.3 *Construction Site:* The location on which construction or building activity, including clearing, grading and excavating results in soil disturbance.

1.3.4 *Stabilization:* Methods that prevent and control sediment, erosion, and debris runoff on the entire disturbed soil section for a location. Methods include mulch, straw, vegetative cover, and rock drive entrances. Disturbed ground must be stabilized immediately if a site is to be inactive for a period exceeding the time specified in the responsible party's NPDES General No. 2 permit or the City's MS4 permit.

1.3.5 *Municipal Separate Storm Sewer System (MS4) Permit:* The permit issued to the City from the Iowa DNR to allow discharging of storm water from within the boundaries of a municipality to the waters of the state.

1.3.6 *National Pollutant Discharge Elimination System (NPDES) General Permit No. 2:* A permit issued to the owner or operator of a construction site one acre or larger from the Iowa DNR to set the requirements for and to allow discharging of storm water under the City's MS4 Permit.

1.3.7 *Construction Site Erosion and Sediment Control Ordinance (COSESCO):* The ordinance that enables the City to conduct site visits of construction site erosion and sediment control on private property, defines the Responsible Parties for storm water pollution prevention on construction sites, sets the parameters for storm water pollution prevention compliance, sets forth penalties for non-compliance with the requirements of the MS4 and NPDES General No. 2 Permits, and sets forth penalties for non-compliance with the requirements of the MS4 and NPDES General No. 2 Permits.

1.3.8 *Storm Water Pollution Prevention Plan (SWPPP):* Written documents that describe the pollution prevention practices and activities that will be implemented on the construction site. It includes descriptions of the site and of each major phase of the planned activity, the roles and responsibilities of contractors and subcontractors, and the inspection schedules and logs. It is also a place to document changes and modifications to the construction plans and associated storm water pollution prevention activities.

1.3.9 *Potential Storm Water Violation:* Failing, damaged or inadequate BMP's, evidence of previous discharge, or practices that contribute to the potential for polluting from a location.

1.3.10 *Storm Water Violation:* Actual non-complying storm water discharge and pollution per the MS4 or NPDES permits from a location or during activities.

1.3.11 *Hazardous Condition:* A situation, pattern of non-compliance, repeat violations, or direct discharge of a hazardous substance onto the land into a water of the state, or into the atmosphere.

1.3.12 *Stop Work Order:* A City act and notice that no activities can be done on a construction or building site and all city permits are suspended, except for correcting storm water pollution prevention violations.

1.3.13 *Responsible Party:* The permittee(s) listed on the NPDES General No. 2 Permit for a construction site. For sites where a NPDES General No. 2 Permit is not required the contractor, builder, company, entity, and/or property owner who manages the activities and storm water prevention for the site is considered the responsible party per the City's COSESCO.

1.4 <u>City codes, ordinances, and permits applicable to construction site storm water pollution prevention:</u>

1.4.1 West Des Moines MS4 Permit as referenced in City Code Title 8, Chapter 6 and on file with the City Clerk's office.

1.4.2 West Des Moines Construction Site Erosion and Sediment Control Review and Site Visit Program (COSESCO) as referenced in City Code Title 8, Chapter 6 and on file with the City Clerk's Office.

1.4.3 When applicable, individual site NPDES General Permit No. 2 as referenced in City Code Title 8, Chapter 6 per the Code of Iowa, Iowa Administrative Code and Federal Clean Water Act.

1.4.4 City Code 8-6: Construction Site Erosion and Sediment Control.

1.4.5 City Code 8-5: Site Grade Regulations.

1.4.6 City Code 8-2 Article A: Building Code.

1.4.7 City Code 7-8 Article E: Illicit Discharge to Storm Sewer System.

1.4.8 City Code 7-8 Article G: Post Construction Storm Water Management.

1.4.9 City Council Resolution for Schedule of Rates, Fees and Charges for Erosion & Sediment Control Construction Site Visits. See Attachment "A".

1.5 Applicable City divisions and public entities:

1.5.1 Engineering Services – Administration Division: 515-222-3475.

1.5.2 Development Services - Building Inspection Division: 515-222-3620.

1.5.3 Public Services: 515-222-3480.

1.5.4 City Manager's Office: 515-222-3550.

1.5.5 City Attorney's Office: 515-222-3523.

1.5.6 Iowa DNR – Environmental Protection Division Field Office 5: 515-725-0628.

1.5.7 U. S. EPA – Region 7 Kansas City Mo.: 1-800-223-0425.

2.0 Scope

2.1 This policy sets forth the procedures and criteria to be followed by City staff inspecting and enforcing storm water pollution prevention activities and compliance on construction sites in the City.

2.2 Storm Water Pollution Prevention Compliance Items:

2.2.1 Prevention of illicit discharge to the storm sewer, drainage areas, or water ways.

2.2.2 Properly installed and maintained perimeter erosion and sediment controls around unstabilized areas. (Silt Fence, wattles, erosion control socks, etc.).

2.2.3 Stabilized construction entrances for work and building sites. (Granular or paved entrance).

2.2.4 No debris or mud tracked out and cleaning on streets adjacent to construction and building sites.

2.2.5 Stabilized inactive disturbed ground (0-14 Day Rule) with mulch, straw, properly established vegetative cover or other approved comprehensive controls that will prevent erosion and storm water debris runoff for a construction site.

2.2.6 Properly installed and maintained inlet protection devices (IPD's) for intakes or inlets.

2.2.7 Using and removing full concrete wash out bags on construction sites.

2.2.8 Following the requirements of the City's MS4 permit, the construction site SWPPP, and NPDES General Permit No. 2.

3.0 Policy

3.1 Routine inspection for storm water pollution prevention site compliance.

3.1.1 Routine Inspection – No inspection fee.

3.1.2 If a site is not in compliance, the Engineering Services inspector will contact the Responsible Party to address issues to full compliance within the timeframes designated by the NPDES General Permit # 2 and the City's MS4 Permit.

3.1.3 The Engineering Services Inspector will log the results of the routine inspection in the appropriate City tracking spreadsheet/data base.

3.2 Complaint inspection for storm water pollution prevention site compliance from the public or other entity.

3.2.1 Initial Complaint Inspection – $100 inspection fee. If the site is in compliance upon the initial complaint inspection, the inspection fee will be waived.

3.2.2 If the site is not in compliance upon the initial complaint inspection, the Engineering Services inspector will notify the Responsible Party by e-mail and certified mail to bring the site into full compliance within the timeframes designated by the NPDES General Permit # 2 and the City's MS4 Permit.

3.2.3 The City's Public Services and Development Services Departments will be notified.

3.2.4 The Engineering Services Inspector will log the results of the complaint inspection in the appropriate City tracking spreadsheet/data base.

3.2.5 The City will invoice the complaint inspection fee charge to the Responsible Party.

3.3 MS4 permit quarterly inspections for storm water pollution prevention site compliance and sites covered by NPDES General Permit # 2.

3.3.1 Initial Quarterly Inspection – $50 inspection fee.

3.3.2 If the site is not in compliance, the Engineering Services inspector will notify the NPDES Permit holder by e-mail and certified mail to bring all sites covered by the SWPP into full compliance within the timeframes designated by the NPDES General Permit # 2 and the City's MS4 Permit.

3.3.3 The City's Development Services and Public Services Department will be notified.

3.3.4 The Engineering Services Inspector will log the results of the initial quarterly inspection in the appropriate City tracking spreadsheet/data base.

3.3.5 The City will invoice the initial quarterly inspection fee charges to the Responsible Party.

3.4 Routine, complaint, and MS4 Permit quarterly re-inspections and enforcement of sites not in compliance after initial inspection.

3.4.1 First Re-inspection after initial inspection – No re-inspection fee.

A. If the site is not in compliance after the initial notice within the timeframe designated by the NPDES General Permit # 2 and the City's MS4 Permit, the Engineering Services inspector will send a Notification of Violation (NOV) to the Responsible Party to address issues to full compliance within the timeframe required by the NPDES General Permit # 2 and the City's MS4 Permit.

B. A copy of the NOV and supporting documents will be sent to the Development Services and Public Services Departments.

3.4.2 Second Re-inspection after initial inspection – $500.00 re-inspection fee. If the site is in compliance upon inspection, the re-inspection fee will be waived.

A. If the site is not in compliance after mailing the NOV within the timeframe designated by the NPDES General Permit # 2 and the City's MS4 Permit, the Engineering Services Director and City Manager's office will be notified for approval of possible "Stop Work Order" action of construction/building activities on the site. If approved, Engineering Services will provide Development Services, other applicable City staff, and the Responsible Party(s) with a "Stop Work Order" for specific site addresses that have an active building permit or other work locations with violations.

B. Development Services will send a "Stop Work Order" to all builders associated with the sites or lots not in compliance. A "Stop Work Order" notice will be posted on specific site addresses that have an active building permit and other work locations

that are not in compliance. *A sample "Stop Work Order" notice is attached to this policy.* See attachment B.

3.4.3 Third Re-inspection after initial inspection – $1000.00 re-inspection fee. After a "Stop Work Order" has been provided for a site, the third re-inspection will not be conducted until it is requested in writing by a letter or an e-mail from the Responsible Party to the City's Engineering Services Department.

A. If a specific site address or work location is not in compliance after 30 days of the "Stop Work Order" notice, any applicable building permits and other city permits will be suspended or revoked per Chapter 8-2A-7 of the City Code until the site is brought into compliance. If building or other permits are revoked by the City, the applicant will be required to re-apply for new permits and pay the associated fees before allowing to do further work.

3.4.4 Fourth and Subsequent Re-inspections After initial inspection – $1,000.00 fee charge per re-inspection.

A. Fourth and subsequent re-inspections will not be conducted until they are requested in writing by a letter or an e-mail from the Responsible Party to the City's Engineering Services Department.

3.4.5 The Engineering Services Inspector will log the results of each re-inspection in the appropriate City tracking spreadsheet/data base.

3.4.6 The City will invoice the re-inspection fee charges to the Responsible Party.

4.0 <u>Distribution</u>

4.1 City Manager and all Department Directors.

Authorized by the City Manager/City Council effective _____;

revised _____; last revised _____.

_____
City Manager

_____
Date

Attachment A: 2019 Stormwater Management Inspection Fees
Attachment B: Sample Stop Work Order

2019 Proposed Changes to Stormwater Management Inspection Fees Resolution.			
	Description	Fee	Last Change (Approval Date)
B.	**Development Services and Engineering Services**		
XXVI.	Erosion & Sediment Control Construction Site Visits		
a.	Routine Inspection	$0.00	Resolution (06/17/2019)
b.	Complaint Inspection	$100.00 per Inspection	Resolution (06/17/2019)
c.	Quarterly Visits Per City's MS4 Permit Requirements	$50.00 per visit	Resolution (06/17/2019)
d.	First Re-Inspection	$0.00	Resolution (06/17/2019)
e.	Second Re-Inspection	$500.00	Resolution (06/17/2019)
f.	Third Re-Inspection	$1,000.00	Resolution (06/17/2019)
g.	Fourth or Subsequent Re-Inspections	$1,000 per re-Inspection	Resolution (06/17/2019)

ATTACHMENT B

STOP WORK ORDER

City of West Des Moines

Engineering and Development Services Departments

NOTICE

Address: _____

This address or site has been issued a Stop Work Order for erosion and sediment control deficiencies in accordance with West Des Moines Code Section 8-6. The only work allowed to continue on this site is the correction of the erosion and sediment deficiencies outlined in the Notice of Violation report, which was sent to the responsible party by e-mail and/or certified mail.

If the erosion and sediment control deficiencies are not corrected, or if any work is done on the site other than work involved with addressing the deficiencies, the responsible party may be subject to revocation of their permits, a municipal infraction and/or be fined.

Work may only resume at this site after written notification that the Stop Work Order has been removed is provided by the City.

City of West Des Moines
Engineering and Development Services Departments

_____
Date and Time

Do Not Remove this notice under penalty of law.

If you have questions about this Stop Work Order, please contact the West Des Moines Development Services Department (515-222-3620) or the Engineering Services Department (515-222-3475).

SAMPLE

ORDEN DE PARAR TRABAJO

Ciudad de West Des Moines

Departamentos de Ingeniería y de Servicios de Desarrollo

AVISO

Direccion del Lugar:

_____

La ciudad de West Des Moines ha emitido una orden parando trabajo en este sitio para las deficiencias en el control de erosion y sedimentos de acuerdo con el código de West Des Moines sección 8-6. El único trabajo permitido para continuar en este sitio es la corrección de las deficiencias de erosión y sedimentos descritas en el informe de notificación de infracción, que fue enviada a la parte responsable por correo electrónico y/o correo certificado.

Si estas deficiencias no son corregidas, o si trabajo es hecho en el sitio además del trabajo implicado con las deficiencias, la parte responsable puede ser sujeto a la revocación de sus permisos, una infracción municipal y/o ser multado.

El trabajo sólo puede reanudarse en este sitio después de la notificación por escrito de la Ciudad indicando que la Orden de Parar Trabajo ha sido eliminado.

City of West Des Moines
Engineering and Development
Services Departments

_____
Fecha y Hora

No Remueva Este Aviso Bajo Pena De Ley

Para preguntas sobre esta orden de trabajo, llame al Departamento de Servicios de Desarrollo (515-222-3620) or Departamento de Ingeniería (515-222-3475).

SAMPLE

RESOLUTION ADOPTING CITY POLICY FOR INSPECTION AND ENFORCEMENT OF STORM WATER POLLUTION PREVENTION ACTIVITIES IN WEST DES MOINES

WHEREAS, Per Iowa Department of Natural Resources (DNR) and United States Environmental Protection Agency (EPA) regulations, the City of West Des Moines has been tasked with the inspection and enforcement of storm water pollution prevention activities on construction and building sites in the City;

and

WHEREAS, for consistency, the City desires to establish an Administrative Policy for the inspection and enforcement of storm water pollution prevention activities, to include a schedule of fees;

therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, the Administrative Policy for Inspection of Storm Water Pollution Prevention Activities in West Des Moines, Iowa proposed by staff and reviewed and recommended by the Public Services Council Committee is hereby approved.

PASSED AND APPROVED on this _____ day of _____**, 2019.**

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk