CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: August 19, 2019

ITEM: Amendment to City Code – Amend Title 8 (Building Regulations), Chapter 6 (Construction Site Erosion and Sediment Control) to modify the procedures and requirements for storm water management.

Ordinance: Approval of Second Reading, Waive Third Readings and Adopt in Final Form

FINANCIAL IMPACT: Undetermined.

BACKGROUND: The City of West Des Moines requests an amendment to the noted chapter and sections of Title 8 (Building Regulations) to amend regulations pertaining to storm water management.

- Title 8 (Building Regulations)
  - Chapter 6 (Construction Site Erosion and Sediment Control), Section 1 (Purpose), Section 2 (Procedure for Compliance), Section 3 (Site Visit Procedures) and Section 4 (Monitoring Procedures)

This amendment is to ensure compliance with the City's MS4 Permit (Municipal Separate Storm Sewer System), Iowa Department of Natural Resources (DNR) and United States Environmental Protection Agency (EPA) regulations, and best management practices used for storm water pollution prevention, erosion control, and sediment control work on construction sites.

A minor change was made after the first reading. In Title 8 (Building Regulations), Chapter 6 (Construction Site Erosion and Sediment Control), Section 3 (Site Visit Procedures) paragraph D, language was stricken to ensure the City complied with State and Federal permit requirements.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: City Staff recommends the City Council approve the second reading, waive the third reading, and adopt in final form the amendment to City Code, Title 8 (Building Regulations), Chapter 6 (Construction Site Erosion and Sediment Control).

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

STAFF REVIEWS:

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

PUBLICATION(S) (if applicable)

Published In	
Date(s) Published	
Letter sent to surrounding property owners	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Services		
Date Reviewed	April 22, 2019		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I Ordinance

Prepared by: Greta Truman, Assistant City Attorney, City of West Des Moines, West Des Moines, IA 50265 (515) 222-3673
Return To: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265

ORDINANCE #_____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2019, BY AMENDING TITLE 8 (BUILDING REGULATIONS), CHAPTER 6 (CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL) TO MODIFY THE AUTHORITY, PROCEDURES AND REQUIREMENTS FOR STORM WATER MANAGEMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT. Title 8 (Buildings Regulations), Chapter 6 (Construction Site Erosion and Sediment Control), Section 1 (Purpose) (Ordinance #1710) is hereby amended by adding the text in bold lettering and deleting the text in strikethrough and shaded text;

A. The U.S. environmental protection agency's national pollutant discharge elimination system ("NPDES") permit program (program) administered by the Iowa department of natural resources ("IDNR") requires that due to certain demographic and environmental impact criteria, the city of West Des Moines obtain from the IDNR an NPDES permit for the discharge of ~~stormwater~~ **storm water** from a municipal separate storm sewer system (MS4). The city's MS4 permit is on file in the office of the city clerk and is available for public inspection during regular office hours.

SECTION 2. AMENDMENT. Title 8 (Buildings Regulations), Chapter 6 (Construction Site Erosion and Sediment Control), Section 2 (Procedure for Compliance) (Ordinance #1710) is hereby amended by adding the text in bold lettering and deleting the text in strikethrough and shaded text;

B. Prior to the issuance of any permit by the city for construction activities undertaken by applicant on a site, an applicant shall:

1. Submit to the city a copy of the site plan prepared by the applicant to meet the requirements of the State NPDES general permit no. 2. The site plan shall show Best Management Practice ("BMP") control measures and provide a storm water pollution prevention plan ("SWPPP") applicable to the site **per the NPDES general permit no. 2 requirements**.

SECTION 3. AMENDMENT. Title 8 (Buildings Regulations), Chapter 6 (Construction Site Erosion and Sediment Control), Section 3 (Site Visit Procedures) (Ordinances #1710 and #2275), is hereby amended by adding the text in bold lettering and deleting the text in strikethrough and shaded text;

C. The city may conduct site visits at any time.

2. In addition to the required site visits set forth in subsection C1 of this section, the city may conduct additional site visits at any time. ~~at the expense of the city.~~

D. In the event a site visit identifies an area or incident of noncompliance, the city may, at its discretion, provide the applicant with a list of deficiencies that identifies the area or incident of noncompliance. Prior to an enforcement action being taken, a list of deficiencies must be provided to the applicant. Upon providing a list of deficiencies, the applicant shall immediately commence corrective action and shall complete corrective action within the timeframe designated by the City on the list of deficiencies. ~~**For good cause shown, the city may extend the deadline for completing corrective action.**~~ Failure to take corrective action in a timely manner shall constitute a violation of this chapter.

SECTION 4. AMENDMENT. Ordinance #1710, Title 8, Buildings Regulations, Chapter 6, Construction Site Erosion and Sediment Control, Section 4, Monitoring Procedures, is hereby amended by adding the text in bold lettering and deleting the text in strikethrough and shaded text;

B. It shall be applicant's duty to notify the city of any changes, alterations, transfers of coverage or sales of any property in the same manner, to the same extent and at the same time as such notification is provided to the Iowa Department of Natural Resources pursuant to the requirements of the State NPDES general permit no. 2. In the event the applicant completes a transfer of responsibility in accordance with IAC 567-64.6(6) the contact listed on the **original** Notice of Intent shall remain the primary point of contact for all correspondence from the City, including any enforcement action and invoices for **the** services, **outlined in this code,** for the entire permitted area until such time the authorization is discontinued or the physical area is covered in its entirety by subsequent NPDES general permit no. 2 authorizations.

SECTION 5. REPEALER: All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

SECTION 6. SAVINGS CLAUSE: If any section, provision, sentence, clause, phrase or part of the Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 7. VIOLATIONS AND PENALTIES: Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Sections 1 and 2 of the City Code of the City of West Des Moines, Iowa.

SECTION 8. OTHER REMEDIES: In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 9. EFFECTIVE DATE: This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed and approved by the City Council on this _____day _____ 2019.

_____
Steven K Gaer, Mayor

ATTEST:

_____
Ryan Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2019, and was published in the Des Moines Register on _____, 2019.

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Ryan Jacobson
City Clerk