

ORDINANCE NO. 4980

AN ORDINANCE AMENDING THE 2007 CODE OF ORDINANCES OF THE CITY OF WATERLOO, IOWA, BY REPEALING SECTIONS 1 THROUGH 11 OF CHAPTER 4, STORM WATER MANAGEMENT PROGRAM, OF TITLE 8, PUBLIC UTILITIES, AND BY ENACTING NEW SECTIONS 1 THROUGH 18 OF CHAPTER 4, STORM WATER MANAGEMENT PROGRAM, OF TITLE 8, PUBLIC UTILITIES.

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

That Chapter 4, Storm Water Management Program, of Title 8, Public Utilities, in the 2007 Code of Ordinances of the City of Waterloo, Iowa, is hereby amended to repeal Sections 1 through 11 and to enact in place thereof new Sections 1 through 18, as follows:

TITLE 8
CHAPTER 4
STORM WATER MANAGEMENT PROGRAM

Section 8-4-1. Acronyms and Definitions.

- A. The following acronyms, when used in this chapter, shall have the designated meaning:

BMP	Best Management Practice
CFR	Code of Federal Regulations
CWA	Clean Water Act
FEMA	Federal Emergency Management Agency
HHW	Household Hazardous Waste
IDNR	Iowa Department of Natural Resources
IDOT	Iowa Department of Transportation
MS4	Municipal Separate Storm Sewer System
NOI	Notice of Intent
NOT	Notice of Termination
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
NPS	Non-Point Source
NRCS	National Resource Conservation Service
RCRA	Resource Conservation Recovery Act of 1976
SMCRA	Surface Mining Control & Reclamation Act of 1977
SWPPP	Storm Water Pollution Prevention Plan
TMDL	Total Maximum Daily Load
USDA	United States Department of Agriculture
US EPA	United States Environmental Protection Agency
USGS	United States Geodetic Survey

- B. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

1-YEAR EVENT: A rainfall, runoff, or flood event having a one hundred percent (100%) probability of being equaled or

exceeded in any given year. 24-hour storm duration is assumed unless otherwise noted.

2-YEAR EVENT: A runoff, rainfall, or flood event having two percent (2%) probability of being equaled or exceeded in any given year. 24-hour storm duration is assumed unless otherwise noted.

10-YEAR EVENT: A runoff, rainfall, or flood event having a ten percent (10%) probability of being equaled or exceeded in any given year. 24-hour storm duration is assumed unless otherwise noted.

100-YEAR EVENT: A rainfall, runoff, or flood event having a one percent (1%) probability of being equaled or exceeded in any given year. 24-hour storm duration is assumed unless otherwise noted.

ADVERSE IMPACTS: Any negative impact on plant, soil, air or water resources affecting their beneficial uses including recreation, aesthetics, aquatic habitat, quality, and quantity.

ALLOWABLE NON-STORM WATER DISCHARGES: Discharge from fire fighting activities that are necessary due to an immediate danger to life or property; fire hydrant flushing; potable water sources; water line flushing; uncontaminated groundwater; uncontaminated pumped ground water; crawl space pump water; natural springs; natural riparian habitat or wetland flows; irrigation water (except for wastewater irrigation); air conditioning condensation; exterior building wash water when no detergents or other surfactants are used; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred and when no detergents or other surfactants are used (unless all spilled material has been removed); diverted stream flows; storm sewer system cleaning water; residential or non-commercial washing of vehicles; de-chlorinated swimming pool discharge less than one (1) PPM chlorine; residual street wash water; de-chlorinated water from reservoir discharges; foundation or footing drains where flows are not contaminated with process materials such as solvents (not including active groundwater dewatering systems); discharges specified in writing by the city engineer, or designated representative, as being necessary to protect public health and safety of citizens; dye-testing procedures (requires a verbal notification to the city engineer, or designated representative, prior to the time of the test); and any other water source not containing pollutants, as approved by the city engineer, or designated representative.

ANIMAL WASTE: See Pet Waste.

APPLICANT: Any person, firm, or governmental agency who executes the necessary forms to procure official approval of a development or permit. In gaining official approval, the

person, firm or governmental agency intends to carry out construction of a new development or re-development.

BASE FLOOD ELEVATION: The elevation at all locations delineating the level of flooding resulting from the 100-year frequency flood event. The 100-year flood event has a one percent (1%) probability of being equaled or exceeded in any given year.

BEST MANAGEMENT PRACTICES (BMPS): Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures and practices to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

BUILDING OFFICIAL: City official or other designated authority charged with the administration and enforcement of the city building codes.

BUILDING PERMIT: Permit issued for the construction, erection or alteration of a structure or building and the related ground and surface preparation prior to and after completion of construction, erection or alteration of a structure or building.

BY-PASS FLOW: Storm water runoff from upstream properties tributary to a property's drainage system but not under its control.

CALENDAR QUARTER: Each of the following periods: December through February, March through May, June through August, and September through November.

CERTIFY OR CERTIFICATION: Formally attesting that the specific inspections and tests were performed, and that such inspections and tests comply with the applicable requirements of this chapter.

CHANNEL: Any defined river, stream, creek, brook, natural or artificial depression, ponded area, on-stream lake or impoundment, abandoned mine, flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or manmade drainage way, which has a definite bed and bank or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

CHANNEL MODIFICATION: The alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes, but is not limited to, damming, placement of riprap (or other armoring), filling, widening, deepening, straightening, relocating, lining, and significant removal of bottom or woody rooted vegetation. Channel modification does not include the clearing of debris or removal of trash.

CITY ENGINEER: The professional engineer registered in the State of Iowa who is designated as city engineer by the city council.

CLEAN WATER ACT (CWA): The federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), and any subsequent amendments thereto. (Formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).

CLEARING: Any activity which removes vegetative ground cover.

COMMERCIAL: Pertaining to any business, trade, industry, or other activity engaged in for profit.

COMPENSATORY STORAGE: An artificially excavated, hydraulically equivalent volume of storage within the floodplain used to balance the loss of natural flood storage capacity when fill or structures are placed within the floodplain.

CONDUIT: Any channel, pipe, sewer or culvert used for the conveyance or movement of water, whether open or closed.

CONSTRUCTION SITE: Any location where clearing, grading, filling, paving, construction, or other activity occurs related to a change or improvement of property.

CONTAMINATED: Containing harmful quantities of pollutants.

CONTRACTOR: Any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

CUSTOMER: Any person, property or entity served by and/or benefiting from the storm water utility's acquisition, management, maintenance, extension and improvement of the storm water drainage system and related facilities.

DEPARTMENT: The Iowa Department of Natural Resources (IDNR) or an authorized representative.

DETENTION BASIN: A facility constructed or modified to provide for the temporary storage of storm water runoff and the controlled release of this runoff at a prescribed rate during and after a flood or storm.

DETENTION TIME: The amount of time storm water is held within a detention basin.

DEVELOPED PROPERTY: Land that is altered from a natural state by grading and/or construction activity for the purpose

of constructing residential, commercial, industrial, or institutional facilities such that the hydrology of the property is affected.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DISCHARGE: The release of water, and any elements, compounds and particles contained within or upon released water, from property owned or controlled by any person.

DISCHARGER: Any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any owner of a construction site or industrial facility.

DOMESTIC SEWAGE: Sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

DRAINAGE PLAN: A plan, including engineering drawings and supporting calculations, which describes the existing storm water drainage system and environmental features, including grading, as well as proposed alterations or changes to the drainage system and environment of a property. Also see Storm Water Pollution Prevention Plan (SWPPP).

DRY BASIN: A detention basin designed to drain after temporary storage of storm water flows and to normally be dry over much of its bottom area.

EARTHWORK: The disturbance of soils on a site associated with clearing, grading, or excavation activities.

ENFORCEMENT OFFICER: The city engineer or any other representative that is designated by the city engineer to act in the place and with the authority of the city engineer.

EROSION: The general process whereby soil or earth is moved by rainfall, flowing water, wind or wave action.

EXCAVATION: Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, re-located or bulldozed, and shall include the conditions resulting from such actions.

EXCESS STORM WATER RUNOFF: The volume and rate of flow of storm water discharged from a new development or re-development, which is or will be in excess of that volume and rate which existed before development or re-development.

EXISTING GRADE: The vertical location of the existing ground surface prior to excavation or filling.

FACILITY: An entity which discharges storm water.

FERTILIZER: A substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

FILL: Any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location, and shall include the conditions resulting therefrom.

FINAL GRADE: The vertical location of the ground surface after grading work is completed in accordance with the plans.

FIRE PROTECTION WATER: Any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.

GARBAGE: Animal and vegetable waste materials from the handling, preparation, cooking or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products. Also, refuse and other unwanted and useless material.

GRADING: Any act of excavation or fill of land surface to a desired slope or elevation, or any combination thereof, and shall include the conditions resulting from any excavation or fill.

GROUNDWATER: Any water residing below the surface of the ground or percolating into or out of the ground.

HARMFUL QUANTITY: The amount of any substance that the appropriate official determines will cause an adverse impact to storm drainage system or will contribute to the failure of the jurisdiction to meet the water quality based requirements of the NPDES permit for discharges from the MS4.

HAZARDOUS SUBSTANCE: Any substance listed in Table 302.4 of 40 CFR Part 302.

HAZARDOUS WASTE: Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

HOUSEHOLD HAZARDOUS WASTE (HHW): Any material generated in a household (including single and multiple residences) that would be classified as hazardous by the IDNR or US EPA or by any rule or regulation promulgated by either agency.

HYDROGRAPH: A graph showing, for a given location on a stream or conduit, the flow rate with respect to time.

HYDROGRAPH METHOD: A method that estimates runoff volume and runoff hydrographs for a point of interest by generating hydrographs for individual sub areas, combining them, and routing them through stream lengths and reservoir structures. Factors such as rainfall amount and distribution, runoff curve number, time of concentration, and travel time are included.

ILLEGAL DISCHARGE: See Illicit Discharge below.

ILLICIT CONNECTION: Any drain or conveyance, whether on the surface or subsurface, which allow an illicit discharge to enter the MS4.

ILLICIT DISCHARGE: Any discharge to the MS4 that is prohibited under this chapter.

IMPERVIOUS SURFACE: A hard-surfaced area that prevents or retards the entry of water into the soil. An impervious surface may cause water to run off the surface in greater quantities, or at an increased rate of flow, than was present under natural conditions. Impervious surfaces include, but are not limited to, roof tops, asphalt or concrete streets, sidewalks, driveway paving, parking lots, walkways, patio areas, storage areas, gravel, bituminous substances or other surfaces which similarly affect the natural infiltration, or runoff patterns, of real property in the natural state with existing ground cover.

INDUSTRIAL WASTE (COMMERCIAL WASTE): Any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.

INFILTRATION: The passage or movement of water into the ground.

LAND DISTURBING ACTIVITY: The process of disturbing existing groundcover, excavation of existing site material, or the placement of fill material on a site, related to a man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

LOESSAL SOIL: Sediment, commonly non-stratified and unconsolidated, composed predominately of silt-sized particles with accessory clay and sand.

LOT: A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. No portion of an established floodway area lying within a lot or any access drive through a property shall be used in computing the number of dwelling units to be constructed. Such lot shall have frontage on a public street or private street and may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) a combination

of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; and (d) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this chapter.

MAJOR DRAINAGE SYSTEM: That portion of a drainage system needed to store and convey flows beyond the capacity of the minor drainage system.

MAY: Signifies an act that is discretionary.

MECHANICAL FLUID: Any fluid used in the operation and maintenance of machinery, vehicles and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.

MINOR DRAINAGE SYSTEM: Portion of a drainage system designed for the convenience of the public. It consists of street gutters, storm sewers, small open channels and swales.

MITIGATION: Activity necessary when the prescribed controls are not sufficient and additional measures are required to offset the development, including those measures necessary to minimize the negative effects which storm water drainage and development activities might have on the public health, safety and welfare. Examples of mitigation include, but are not limited to, compensatory storage, soil erosion and sedimentation control, and channel restoration.

MOBILE COMMERCIAL COSMETIC CLEANING (OR MOBILE WASHING): Power washing, steam cleaning, and any other method of mobile cosmetic cleaning of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The conveyance or system of conveyances, including storm sewers, roadways, roads with drainage systems, catch basins, curbs, gutters, ditches, constructed channels and storm drains, owned or operated by the city.

NATURAL: Conditions resulting from physical, chemical, and biological processes without intervention by man.

NATURAL DRAINAGE: Channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II PERMIT: A permit issued by the US EPA or by a State under authority delegated pursuant to 33 U.S.C. §1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE: Any discharge that to the MS4 that is not composed entirely of storm water.

NOTICE OF VIOLATION: A written notice detailing any violations of this chapter and any action expected of the violators.

OIL: Any kind of oil in any form, including but not limited to petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

OUTFALL: The point at which water or any other material leaves or may leave the MS4 and also means the point at which water or any other material leaves or may leave an enclosed conveyance that is part of the MS4 and enters an open conveyance that is also part of the MS4.

OWNER: The person who owns a facility, part of a facility, or land.

PARCEL: A contiguous lot or tract of land under one ownership. A lot or tract of land is land intended as a unit for the purpose of use, development or transfer of ownership.

PEAK FLOW: The maximum rate of flow of water at a given point in a channel or conduit.

PERMITTEE: The city or jurisdiction.

PERSON: Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

PESTICIDE: A substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest.

PET WASTE (OR ANIMAL WASTE): Excrement and other waste from domestic animals.

PETROLEUM PRODUCT: A product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol-blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

POLLUTANT: Any item that may alter storm water from a natural state. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil, automotive fluids, solid wastes, yard wastes, refuse, rubbish, garbage, litter, discarded or abandoned objects, pesticides, herbicides, fertilizers, sewage, fecal coliform, heavy metals, animal wastes, sediment from construction sites, and noxious or offensive matter of any kind.

POLLUTION: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

POSITIVE DRAINAGE: Provision for overland paths for all areas of a property including depression areas that may also be drained by storm sewer.

POTABLE WATER: Water that has been treated to drinking water standards and is safe for human consumption.

PRIVATE DRAINAGE SYSTEM: All privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey storm water, including but not limited to roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

PUBLIC IMPROVEMENT PLANS: Engineering drawings subject to approval by the city engineer for the construction of public improvements.

QUALIFIED PERSON: A person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.

RELEASE: To dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

RE-DEVELOPED PROPERTY: Developed property that is altered or expanded by grading and/or construction activity at a time period following initial construction.

RETENTION FACILITY: Facility designed to hold storm water for a sufficient length of time to provide for the storm water to be consumed by evaporation into the air and/or infiltration into the immediate soil.

RUBBISH: Solid waste, including ashes, that consists of:

- A. Combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and/or
- B. Noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

SANITARY SEWAGE: The domestic sewage and/or industrial waste that is discharged into the city sanitary sewer system and passes through the sanitary sewer system to the city sewage treatment plant for treatment.

SANITARY SEWER: The system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, to the city sewage treatment plant (and to which storm water, surface water, and groundwater are not intentionally admitted).

SEDIMENT: Soil (or mud) that has been disturbed or eroded and transported naturally by water, wind, gravity, or equipment tracking (tires, vehicles).

SEDIMENTATION: The process that deposits soils, debris, and other materials either on other ground surfaces or in bodies of water or storm water drainage systems.

SEPTIC TANK WASTE: Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.

SHALL: Signifies an act that is mandatory.

SIGNIFICANT MATERIALS: Includes, but is not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); any chemical the facility is required to report pursuant to Section 313 of Emergency Planning and Community Right-to-Know Act (EPCRA); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

SITE: The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

SLOPE DISTURBANCE LINE: The line which delineates relatively level building areas from areas where slopes exceed seven percent (7%) and where special precautions must be taken.

SMALL QUANTITY GENERATOR WASTE: Any hazardous waste generated by a small quantity generator as defined by the US EPA.

SOLID WASTE: Any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

STORM SEWER: A closed conduit for conveying collected storm water.

STORM WATER: Storm water runoff, snow melt runoff, and surface runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY: The discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in subsections A through J of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in subsection K of this definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as

office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from the above-described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in subsections A through K of this definition) include those facilities designated under 40 CFR § 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

- A. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards that are exempted under category (xi) of this definition);
- B. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, or 373;
- C. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations that have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with, or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but that have an identifiable owner/operator;
- D. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;
- E. Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;
- F. Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to

those classified as Standard Industrial Classification 5015 or 5093;

- G. Steam electric power generating facilities, including coal handling sites;
- H. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 or 5171 that have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or that are otherwise identified under subsection A to G or I to K of this definition are associated with industrial activity;
- I. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR Part 503;
- J. Construction activity including clearing, grading and excavation activities that result in the disturbance of 1 acre or more of total land area or which result in the disturbance of less than 1 acre but are part of a larger common plan of development or sale of 1 acre or more;
- K. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, or 4221-4225 (and that are not otherwise included within subsections A through J of this definition.

STORM WATER DRAINAGE SYSTEM: Any publicly or privately owned or operated surface, system, facility, structure, improvement, development, equipment, property or interest therein, or other structural or nonstructural element made, constructed, used or acquired, for the purpose of collecting, containing, storing, conveying and controlling storm water, including but not limited to storm sewers, curbs, street drains, conduits, lakes, rivers, creeks, other natural or manmade channels, pipes, culverts and detention ponds.

STORM WATER MANAGEMENT PROGRAM: Overall strategy and plan for the management of storm water drainage within the city as

outlined originally in the city's notice of intent dated March 2003.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): A document that describes the best management practices to be implemented at a site, to prevent or reduce the discharge of pollutants.

STORM WATER RUNOFF: That portion of rainfall that drains into the storm sewer drainage system.

STORM WATER USER FEE: The periodic rate, fee or charge levied within the boundaries of the storm water drainage system district for use in the acquisition, management, maintenance, extension and improvement of the city's storm water drainage system and related facilities and otherwise in carrying out the city's storm water management program. User fees are based on measurable parameters which influence the storm water utility's cost of providing services and facilities, with the most important factor being the amount of impervious surface area on a parcel of property.

STREAM: Any river, creek, brook, branch, flowage, ravine, or natural or man-made drainage way which has a definite bed and banks or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

STRIPPING: Any activity which removes the vegetative surface cover, including trees, by spraying or clearing, and storage or removal of topsoil.

SUBDIVISION DEVELOPMENT: Includes activities associated with the platting of any parcel of land into two or more lots and includes all construction activity taking place thereon.

SURFACE WATER: Water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

TIME OF CONCENTRATION: The elapsed time for storm water to flow from the most hydraulically remote point in a drainage basin to a particular point of interest in that watershed.

TRIBUTARY WATERSHED: All of the land surface area that contributes runoff to a given point.

UNCONTAMINATED: Not containing harmful quantities of pollutants.

USED MOTOR OIL (OR USED OIL): Any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

USED OIL: See Used Motor Oil.

UTILITY AGENCY: Private utility companies, city departments, or contractors working for private utility companies or city departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

VACANT: Land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

WASTE WATER: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

WATER QUALITY STANDARD: The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by state or federal regulatory standards to be necessary to protect those uses.

WATERS OF THE STATE: Any river, stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof, but not including any waters of the United States.

WATERS OF THE UNITED STATES: All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "Waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

WATERSHED: All land area drained by, or contributing water to, the same channel, lake, marsh, storm water facility, groundwater or area of depression.

WET BASIN: A detention basin designed to maintain a permanent pool of water after the temporary storage of storm water runoff.

WETLANDS: Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. For general, but not

inclusive locations of designated wetlands refer to mapping prepared jointly by the U.S. Department of Interior and the U.S. Fish and Wildlife Service.

YARD WASTE: Leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

Section 8-4-2. Purpose, Intent and Objectives.

- A. The purpose of this chapter and other ordinances adopted under this chapter of the Code of Ordinances is to address mandates of the federal government, including but not limited to the Clean Water Act and National Pollutant Discharge Elimination System (NPDES) Phase II permit regulations regarding the desired reduction of pollution in storm water runoff.
- B. The intent of this chapter and other ordinances adopted under this chapter is to establish policies to comprehensively manage and reduce the potential for storm water runoff pollution in a safe and economical manner within the city, for the purpose of promoting the health, safety and general welfare of the population, and for the protection of property. This chapter is also intended to provide for the study of, design, operation, construction, equipping, and maintenance of the storm water drainage system within the city limits.
- C. Following are objectives of the storm water management program:
 - 1. To maintain and improve the quality of water impacted by the storm drainage system of the city,
 - 2. Maintain emergency vehicle movement during storm or flood events,
 - 3. Protect, maintain and enhance the environment of the city, and the short-term and long-term public health, safety, and general welfare of the citizens of the city,
 - 4. Reduce pollutant discharge to the city's storm sewer system from construction sites, as well as the discharge of pollutants from industrial, commercial and residential areas of the city,
 - 5. Preserve the value of existing buildings and other assets by developing infrastructure that will assist in the reduction of storm event related losses,
 - 6. Assure that new developments and re-developments do not increase flood or drainage potential or create unstable conditions susceptible to erosion,
 - 7. Facilitate compliance of construction site permits with regard to State and Federal standards,

8. Preserve the city's watercourses in good condition,
 9. Address and minimize obstruction of the city's watercourses,
 10. Enhance urban water resource management techniques, including both the reduction of pollution, and the enhancement of the urban environment, required by the NPDES permit and such other regulations of the city, state and federal government,
 11. Maintain temporary and permanent public storm water storage facilities within the city in good operational condition.
 12. Promote public awareness of the impact of improper discharge of garbage, hazardous chemicals and sediment to the storm drainage system,
 13. Encourage the recycling and proper disposal of hazardous consumer products, and
 14. Maintain and improve the quality of the community water into which the storm water outfalls flow, including, without limitation, the lakes, rivers, streams, ponds, wetlands, sinkholes, and groundwater of the city, waters of the State and waters of the United States.
- D. The city owns or has legal access for purposes of operation, maintenance and improvement to those segments of the storm water drainage system which (1) are located within public streets, rights of ways and easements; (2) are subject to easement or other permanent provisions for adequate access for operation, maintenance and improvement of systems or facilities; or (3) are located on public lands to which the city has adequate access for operation, maintenance and improvement of systems or facilities.
- E. Operation, maintenance and improvement of storm water drainage systems and facilities which are located on private property or public property not owned by the city, and for which there has been no public dedication of such systems and facilities, shall be and remain the legal responsibility of the property owner or occupant.

Section 8-4-3. General Duties and Authority of the City Engineer.

The city engineer, or designated representative, shall exercise all lawful powers necessary and appropriate to administer the storm water management program. The duties and authority herein described are in addition to other applicable legal duties and authority. The duties and authority of the city engineer, or designated representative, shall include, but are not limited to:

- A. Administration of the regulations contained in the NPDES permit and in this chapter.
- B. Development and administration of all phases of a comprehensive storm water management program, including, establishing, studying, planning, designing, developing, acquiring land for, constructing, administering, operating, improving, maintaining, and reconstructing the city's storm sewer system as necessary.
- C. Administration of the accounting, budgeting, record-keeping and support personnel necessary for the efficient operation of the storm water management program.
- D. Development of educational materials to increase public awareness that would improve the public's knowledge and reduce the introduction of pollution to the storm water drainage system by the general public.
- E. Coordinate enforcement of the regulations contained in this chapter and other ordinances adopted under this chapter with other city departments.
- F. Seek the cooperation of counties and municipalities in communities adjacent to the city with the goal of reducing storm drainage system flooding.
- G. Cooperate with other affected political jurisdictions in preparing and implementing master drainage plans.
- H. Provide an exchange of information between the public and city employees on flooding areas and storm water drainage problems within the city.
- I. Perform studies and evaluation required to establish, maintain and/or modify the storm water management program, and conduct necessary inspections and tests to assure compliance with the provisions of this chapter.
- J. Require the preservation and enhancement of certain natural environmental features.
- K. Require submittal of appropriate federal, state and local permitting to perform work within the city limits.
- L. Review the installation of drainage improvements in new developments and in redevelopments.
- M. Administration of a program to periodically review erosion control features placed within new construction sites.
- N. Administration of a program to periodically review erosion control features placed during initial construction to ensure that they remain in good condition and are not removed without proper authorization.

- O. Recommend to the city council the establishment, and periodic adjustment of, storm water user fees.
- P. Review and recommend modification to the collection procedure for storm water user fees.
- Q. Hear and consider challenges to the application of this chapter, the application of other ordinances adopted under this chapter, and the calculation of storm water user fees.
- R. Recommend to the mayor and the city council policies for establishing additional storm water drainage services, preserving or expanding existing services and making changes in service for the benefit of the city.
- S. Recommend to the mayor and the city council policies for establishing additional storm water drainage services, preserving or expanding existing services and making changes in service for the benefit of the city, and otherwise recommend policies to implement the provisions of this chapter.
- T. Except as otherwise provided in this chapter, determine all matters concerning establishment of billing accounts for storm water user fees, including but not limited to creating customer billing accounts that may consist of combining separate contiguous parcels of property that are under single ownership, creating master accounts for billing of user fees when there are multiple property owners on combined water accounts or in other suitable situations, and otherwise combining or dividing parcels for fair and administratively convenient billing.
- U. Determine proper classification of a property for billing purposes and calculate and establish ERUs for properties.
- V. In coordination with other city departments, maintain a complete and accurate record of all storm water drainage systems and facilities.
- W. Construe and interpret this chapter to achieve, to the extent possible, harmony among its provisions and to carry out the purposes of this chapter.

Section 8-4-4. City Council Discretion Regarding Improvements to System.

- A. Determination of storm water services to be provided by the city, and construction of storm water facilities and improvements to the storm water drainage system, shall be made at the sole discretion of the city council.
- B. The city engineer, or designated representative, shall recommend storm water services to be provided by the city, and construction of the storm water facilities and improvements to the storm water drainage system, to the city council based upon engineering analysis, taking into

consideration frequency of flooding events, potential loss of life, potential property damage, effect upon the general public and other factors affecting the purpose of this chapter.

Section 8-4-5. Storm Water Management Authority.

- A. All areas within the city limits of the city are hereby declared and designated as a storm water drainage system district within the meaning and intent of, and for the purposes authorized by, Section 384.84 of the code of Iowa. Said district shall be governed by a storm water management authority.
- B. In furtherance of the purposes for which a storm water drainage system district is authorized, and to protect and promote the public health, safety, welfare, and convenience of the city and its citizens, user fees shall be levied upon and collected from the owners of all real estate that discharges storm water, directly or indirectly, to the storm water drainage system.
- C. The city council shall be the governing body of the storm water management authority, and the authority shall be under the direction, management and control of the city engineer. The city engineer shall oversee the daily operation of the storm water management authority, shall enforce the provisions of this chapter and all other ordinances adopted under this chapter, and shall carry out the policy directives of the city council acting in its role as governing body of the storm water management authority.

Section 8-4-6. Right of Entry.

The city engineer, or designated representative, bearing proper credentials and identification, shall be permitted to enter all private properties at reasonable times for the purpose of inspection, observation, measurement, sampling and testing all private storm water discharges directly or indirectly entering into any public storm water drainage system or facility in accordance with the provisions of this chapter. If entry is refused, the city engineer shall have recourse to remedies provided by law to secure entry.

Section 8-4-7. Establishment of Storm Water User Fees.

- A. Every customer whose premises is served by a connection to the storm water drainage system and facilities, either directly or indirectly, shall pay user fees to the city for the purpose of contributing toward the costs of the storm water management program. The city council may, from time to time, adopt a separate ordinance to set user fees and to determine the effective date of such fees. For any property that becomes subject to payment of a user fee or adds additional impervious area after the adoption of such ordinance, billing shall commence after substantial completion of construction of improvements. For any

property on which a structure is demolished or impervious area is removed, the property may qualify for a suitable reduction in user fees. Fees shall be calculated on a monthly basis and billed to all customers according to the Waterloo Water Works billing schedule.

- B. For purposes this chapter pertaining to storm water user fees, and for purposes of any separate ordinance adopted by the city council that establishes specific user fees, the following definitions shall apply:

COMMERCIAL/INDUSTRIAL: Any developed property on which retail, office, industrial or manufacturing buildings, storage buildings and storage areas covered by impervious surfaces, parking lots, public and private school buildings, churches, hospitals and convalescent centers have been constructed.

DWELLING UNIT: A singular unit or apartment providing complete, independent living facilities for one or more persons, including provisions for living, sleeping, cooking, eating, and sanitation.

DUPLEX DWELLING: A building containing only two (2) dwelling units and designed for and occupied exclusively by not more than two (2) families. In the application of storm water user fees, duplex dwelling properties shall be treated as two (2) single-family dwellings.

EQUIVALENT RESIDENTIAL UNIT (ERU): The average impervious coverage of a detached dwelling unit property in the city, as determined by the city. Five thousand (5,000) square feet of impervious surface area shall be one equivalent unit. The number of ERUs for each property shall be calculated by the city engineer based on aerial photography in use by the city, impervious surface data from an approved site plan for the property, and/or data obtained during an appeals process.

MULTIPLE-FAMILY DWELLING: A building or portion thereof containing more than two (2) dwelling units designed for or occupied by more than two (2) families. In the application of storm water user fees, each dwelling unit in a multiple-family dwelling unit shall be treated as one single-family dwelling.

RESIDENTIAL: Any developed property on which a single-family dwelling, duplex dwelling, multiple-family dwelling or townhome dwelling has been constructed.

SINGLE-FAMILY DWELLING: A building containing only one dwelling unit and designed for and occupied exclusively for residence purposes by only one family, including but not limited to a mobile home.

SUBSTANTIAL COMPLETION: The date that the city has acknowledged completion of construction in accordance with

approved plans and specifications through the issuance of a temporary certificate of occupancy or permanent certificate of occupancy, a date otherwise determined for purposes of this chapter by the city engineer or designated representative, or the date when Waterloo Water Works establishes an account for a property.

TOWNHOME DWELLING: A dwelling unit which is detached or attached horizontally, and not vertically, to one or more other dwelling units, wherein the land or lot beneath each dwelling may be individually owned in common by a townhome association. In the application of storm water user fees, each separate townhome dwelling shall be treated as one single-family dwelling.

UNDEVELOPED PROPERTY: Land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered state. Undeveloped property shall have less than five hundred (500) square feet of impervious surface area.

Section 8-4-8. Storm Water User Fee Exemptions.

Storm water user fees shall not be imposed on the following types of property:

- A. City, county, state and federal roads, bridges, highways, streets, rights of way, sidewalks and pathways.
- B. All real property owned or operated by the city.
- C. Parks and open spaces owned or operated by the county or state.
- D. Railroad track and associated right of way, but not including any rail yards, buildings, or other paved or graveled surfaces.

Section 8-4-9. Collection of Storm Water User Fees.

- A. Waterloo Water Works is hereby authorized and directed to render and collect fees in accordance with the fees established hereunder. Fees shall be collected with the owner's regular water, sewer and garbage bill and shall be shown as a separate item on the bill. Collection policies shall be the same as for other city utility services. When a fee is more than six (6) months delinquent, the unpaid fee shall be assessed against the property and shall constitute a lien against the property as provided in Iowa Code § 384.84(3). Amounts collected for storm water services shall be deposited with the city.
- B. Late charges and penalties as are now or may be hereinafter established for water, sewer and garbage service bills shall also apply to storm water user fees. In the event that any person, firm or corporation shall tender as payment of water, sewer, garbage and storm water user fees an amount

insufficient to pay in full all of the charges so billed, payment shall be credited proportionately among all charges.

- C. The provision for collection provided herein shall be in addition to any rights or remedies that the city may have under the laws of the State of Iowa or this code.

Section 8-4-10. Discontinuance of Service.

After giving reasonable notice, Waterloo Water Works may discontinue water service to any customer who has failed to pay the amounts due and owing under this chapter and who has not contested payment thereof in good faith.

Section 8-4-11. Expenditures.

The following are acceptable uses of any user fee revenues or other funds allocated by the city to the storm water management program or for storm water drainage systems or facilities. The following list is not exhaustive.

- A. NPDES permit fees.
- B. Development of public outreach and education materials.
- C. Costs associated with public involvement and participation related to the storm water management program.
- D. Storm water policy development assistance.
- E. Illicit discharge detection elimination procedures, equipment, testing and investigation.
- F. Water collection and sampling fees and related equipment.
- G. Planning, design, engineering, construction, inspection, maintenance, operation, and improvement of drainage services, facilities and structures, which shall include but are not limited to conduits, drains, manholes, storm water detention devices, flow impediments, ponds, ditches, sloughs, streams, filter strips, rip-raps, and erosion control devices.
- H. Construction site and post-construction site plan review and inspection costs.
- I. Staff time related to the storm water management program.
- J. Employee training.
- K. Costs associated with capital improvements to storm water drainage systems and facilities.
- L. Consulting fees related to the storm water management program and construction of storm water related projects.
- M. Costs associated with watershed assessment.

N. Street sweeping costs.

Section 8-4-12. Appeal of Rates and Errors.

Any customer who believes that the provisions of this chapter have been applied in error, either as to property classification, the number of dwelling units, or the number of ERUs applicable to the property, or who believes that there has otherwise been an error in billing, may appeal in the manner set forth in this section.

- A. Filing Of Appeal: An appeal must be filed in writing with the city engineer. In the case of appeals relating to the number of ERUs determined for a property, the appeal shall include a survey prepared by a licensed Iowa land surveyor or an Iowa professional civil engineer containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.
- B. Review: Using the information provided by the appellant, the city engineer, or designated representative, shall conduct a review of the conditions on the property or otherwise review factors relevant to the appeal and respond to the appeal in writing within thirty (30) days.
- C. Adjustment Of Charge: In response to an appeal, the city engineer, or designated representative, may correct a billing error or otherwise adjust the storm water user fee applicable to a property in conformance with the general purpose and intent of this chapter.
- D. Appeal Of Adverse Decision: A decision of the city engineer, or designated representative, which is adverse to an appellant may be further appealed to the city council within fourteen (14) days of receipt of notice of such decision. An appeal must be filed in writing with the city clerk, stating the grounds for the appeal and the relief requested. An administrative fee, as set forth in a schedule of fees determined by the city council from time to time, must be paid when the appeal is filed. Failure to file the appeal and pay the administrative fee within said fourteen (14) days shall constitute a waiver of the right to a hearing, and the decision of the city engineer or designated representative shall thereupon become final. The city council or its designated committee shall schedule a public hearing within twenty (20) days after the filing of the appeal, and the city clerk shall notify the appellant and the city engineer of the date, time and place for the appeal hearing. Notice to the appellant shall be mailed by ordinary mail. The hearing shall be simple and informal, without regard to technicalities of procedure or rules regarding admissibility of evidence. The city council or designated committee may consider any evidence it considers credible and give such weight to the evidence as it considers warranted. The person filing the appeal may be

represented by counsel at such person's own expense. The city engineer or designated representative may be represented by the city attorney or by an attorney designated by the city council at the city's expense. All decisions of the city council or its committee shall be rendered in writing within ten (10) days after the hearing, or any continued session thereof, and sent to the appellant by ordinary mail to the billing address of the appellant. All decisions of the city council or its committee shall be final.

Section 8-4-13. Prohibited Acts.

In addition to any other act prohibited by this chapter or any article under this chapter, no person shall do, or allow to be done, any of the following:

- A. Damage Storm Water Management Systems And Facilities: Maliciously, wilfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, pipe, appurtenance or equipment which is part of the storm water management systems or facilities.
- B. Manholes: Open or enter any manhole, structure or intake of the storm water drainage system, except by authority of the city engineer.
- D. Connection: Connect any private storm water system to the city's storm water drainage system and facilities, except by authority of the city engineer.

Section 8-4-14. Enforcement.

- A. Violation of any provision of this chapter may be enforced by issuance of a stop work order or notice of violation by the enforcement officer or by civil action, administrative or judicial, including but not limited to an action for injunctive relief. A stop work order shall specify the violation(s) and shall remain in effect until the deficient condition has been remedied. A notice of violation shall specify the violation(s) and shall allow a reasonable time for correcting the violation to the satisfaction of the enforcement officer.
- B. Violation of any provision of this article shall constitute a municipal infraction under this code. A person may be cited for subsequent violations as additional violations are discovered. Each day that a municipal infraction occurs or is permitted to exist constitutes a separate offense.
- C. In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be considered a threat to public health, safety, and welfare, and is declared and deemed a nuisance. This nuisance may be summarily abated or remedied at the violator's expense.

- D. In addition to any fine or penalty set forth in a schedule of violations adopted by the city, as amended thereafter from time to time, the city may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including necessary monitoring expenses.
- E. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the enforcement officer to seek cumulative remedies if necessary. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the city attorney.

Section 8-4-15. Nuisance Abatement Procedures.

- A. Any event, incident, element or condition constituting a violation or failure to comply with any requirement of this chapter or any article under this chapter shall be considered a threat to public health, safety and welfare and therefore deemed to be a nuisance. At the option of the enforcement officer, nuisances shall be processed as a civil action or in the manner set forth in this section.
- B. Except in cases where a nuisance is deemed to constitute an immediate or imminent threat to life or property, the enforcement officer shall notify the property owner in writing before taking action to abate a nuisance. The written notice shall be delivered by first class mail, postage prepaid, to the property owner at its last known address as shown by the records of the county auditor no less than seven (7) days before the date of mailing. In addition to mailing, the written notice shall, if possible, be posted on the property in a conspicuous place. Such notice shall be dated and shall include the following information:
 - 1. Name of the property owner;
 - 2. Location and description of the nuisance;
 - 3. Actions that must be taken to abate the nuisance;
 - 4. Deadline by which the required actions must be completed;
 - 5. Amount of administrative and remediation fines, fees, or costs, if any and if known;
 - 6. Statement that the property owner has a right to appeal the notice in accordance with the procedures set forth in this chapter; and
 - 7. Statement that, if the property owner fails to take required action within the stated deadline, the work may be done by the city at the property owner's expense.

- C. If the property owner does not abate the nuisance as required by the notice, the enforcement officer may enter upon the subject property and take measures necessary to abate the nuisance. It shall be unlawful for any person to refuse to allow the city, or the city's designated contractor, to enter upon the premises for purposes of abating a nuisance.
- D. If any nuisance is deemed to be an immediate or imminent threat to life or property, the enforcement officer may order the nuisance abated without advance written notice to the property owner and opportunity for appeal. As promptly as practicable, the enforcement officer shall notify the property owner in writing of the nuisance and action taken to abate the nuisance.

Section 8-4-16. Nuisance Appeal Procedures.

- A. Except as set forth in paragraph B below, any person ordered to abate a nuisance may appeal the notice. The appeal must be filed in writing with the city clerk within fourteen (14) days of the notice date unless the notice states a shorter time for filing an appeal, which in any event shall be not less than seven (7) days from the notice date. An administrative fee, as set forth in a schedule of fees determined by the city council from time to time, must be paid when the appeal is filed. Failure to file the appeal and pay the administrative fee within said fourteen (14) days shall constitute a waiver of the right to a hearing. The written appeal shall specify the action appealed from, the errors allegedly made that give rise to the appeal, and the relief requested. Appeals shall be heard by the city council or a committee designated by the city council. The city clerk shall notify the person filing the appeal and the enforcement officer of the date, time and place for the appeal hearing. Notice shall be mailed to the person filing the appeal by ordinary mail. The hearing shall be scheduled for a date within twenty (20) days after the filing of the appeal, unless the person filing the appeal requests an extension of not more than fourteen (14) days. The hearing shall be simple and informal, without regard to technicalities of procedure or rules regarding admissibility of evidence. The city council or designated committee may consider any evidence it considers credible and give such weight to the evidence as it considers warranted. The intent of this paragraph is to promote the prompt and speedy resolution of disputes. The person filing the appeal may be represented by counsel at such person's own expense. The enforcement officer may be represented by the city attorney or by an attorney designated by the city council at city expense. The decision of the city council or designated committee shall be rendered in writing within ten (10) days after the hearing, or any continued session thereof, and may be appealed to the Iowa district court as provided by law.
- B. If a person exercised a right of appeal with respect to a bill of particulars under section 8-4B-5, section 8-4B-6, or

section 8-4C-6, such person shall have no additional right of appeal pursuant to this section 8-4-16.

Section 8-4-17. Payment or Assessment of Costs.

- A. Costs incurred by the city to abate a nuisance shall include, but are not limited to, sums paid to a third party for services provided in abating the nuisance, the salaries and benefits earned by city employees engaged in abating the nuisance, a reasonable charge for city machinery or equipment used, and such other reasonable costs and expenses as may have been incurred.
- B. After action to abate a nuisance has been completed, the city shall send to the property owner an itemized written statement of nuisance abatement costs and related fees and charges. The written statement shall be sent by ordinary mail to the property owner at its last known address as shown by the records of the county auditor no less than seven (7) days before the date of mailing. The statement shall be immediately due and payable and shall become delinquent if not paid within fourteen (14) days after the date of the statement.
- C. A person who has been charged nuisance abatement costs may file an appeal in writing with the city clerk within fourteen (14) days of the statement date. An administrative fee, as set forth in a schedule of fees determined by the city council from time to time, must be paid when the appeal is filed. Failure to file the appeal and pay the administrative fee within said fourteen (14) days shall constitute a waiver of the right to a hearing, and the statement shall thereupon become final. Appeals shall be heard by the city council or a committee designated by the city council. The city clerk shall notify the person filing the appeal and the enforcement officer of the date, time and place for the appeal hearing. Notice shall be mailed to the person filing the appeal by ordinary mail. The hearing shall be scheduled for a date within twenty (20) days after the filing of the appeal, unless the person filing the appeal requests an extension of not more than fourteen (14) days. The hearing shall be simple and informal, without regard to technicalities of procedure or rules regarding admissibility of evidence. The city council or designated committee may consider any evidence it considers credible and give such weight to the evidence as it considers warranted. The intent of this paragraph is to promote the prompt and speedy resolution of disputes. The person filing the appeal may be represented by counsel at such person's own expense. The enforcement officer may be represented by the city attorney or by an attorney designated by the city council at city expense. After such hearing, the city council or designated committee shall determine whether the amount of the assessment should be affirmed, reduced, or waived. The decision shall be rendered in writing within ten (10) days after the hearing, or any continued session thereof, and may be appealed to the Iowa district court as

provided by law. If the amount of the assessment is reduced by over half or waived, the appeal filing fee shall be refunded to the person who filed the appeal.

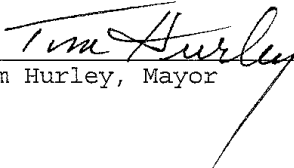
- D. All cost and expense of the city in abating a nuisance, and all other related fees and charges, shall, if and to the extent not paid, constitute a lien against the property and shall be assessed against the property pursuant to Iowa Code § 364.12 for collection in the same manner as a property tax.

Section 8-4-18. Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this chapter.

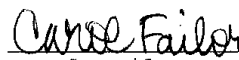
INTRODUCED:	December 7, 2009
PASSED 1ST CONSIDERATION:	December 7, 2009
PASSED 2ND CONSIDERATION:	December 14, 2009
PASSED 3RD CONSIDERATION:	December 14, 2009

PASSED AND ADOPTED by the City Council of the City of Waterloo, Iowa, on the 14th day of December, 2009, and approved by the Mayor on the 16th day of December, 2009.



Tim Hurley, Mayor

ATTEST:



Carol Failor, Deputy City Clerk

CERTIFICATE

I, Carol Failor, Deputy City Clerk, of the City of Waterloo, Iowa, do hereby certify that the preceding is a true and complete copy of Ordinance No. 4980, as passed and adopted by the Council of the City of Waterloo, Iowa, on the 14th day of December, 2009.

Witness my hand and seal of office this 16th day of December, 2009.

SEAL



Carol Failor, Deputy City Clerk