

MEMORANDUM

August 22, 2024

TO: Polk County Zoning Commission

FROM: Brian McDonough, Planning & Development Manager

RE: August 26, 2024 Public Hearing – Zoning Ordinance Amendments

Staff is proposing amendments to the Polk County Zoning Ordinance. Notice has been published and a public hearing is set for our regularly scheduled meeting on Monday, August 26, 2024. A summary of the changes can be found below. We've also included a redlined version of all content impacted, and will provide a presentation and summary of the proposed changes at the meeting.

Specific changes include:

- Amendments to the Stormwater and Erosion Control regulations in response to Senate File [455](#) passed by the Iowa Legislature this past session.
- Changes to the Animal definitions and regulations to cleanup and clarify how the keeping of animals on rural properties are interpreted and enforced by Public Works Staff.
- Clarifying language stating that fences are not permitted within stormwater detention easements.
- Addition of disability-based waiver process to demonstrate clear compliance with State and Federal legislation regarding disabilities, fair housing and civil rights.
- Other non-substantive punctuation, grammatical, formatting and renumbering changes.

If you have any questions, comments or concerns as we proceed through this process, please contact me at (515) 286-2291 or Brian.McDonough@polkcountyiowa.gov.

Article 8. Stormwater and Erosion Control Management

Stormwater and the management of stormwater runoff and erosion control are governed by the provisions of the following Sections.

Division 1. Stormwater Runoff

Development of property without disposition of stormwater runoff is prohibited. The owner of any parcel (s) who shall grade, fill, construct on or otherwise alter the existing stormwater runoff rates, velocities, volumes or drainage patterns shall be responsible for damages, inconveniences or distress resulting from such activities.

Section 1. Excess Stormwater Runoff

Excess runoff shall be judged in comparison to the site in its predeveloped or existing condition and shall include all increases in stormwater resulting from any of the following:

- (A) An increase in the impervious surface of the site, including all additions of buildings, roads and parking lots.
- (B) Changes in soil absorption caused by compaction during development.
- (C) Modifications in contours, including the filling or draining of small depression areas, alterations of drainageways, or regrading of slopes.
- (D) Destruction of woodlands.
- (E) Alteration of drainageways or installation of collection systems to intercept street flows or to replace swales or other drainageways.
- (F) Alteration of subsurface flows, including any groundwater dewatering or diversion practices such as certain drains.

Section 2. Limitation of Stormwater Runoff

No development shall cause downstream property owners, watercourses, channels, or conduits to receive stormwater runoff from the proposed development site at a higher peak flow rate, , or at higher velocities than would have resulted from the same storm event occurring over the site of the proposed development with the land in its natural, predeveloped or existing condition, unless sufficient capacity to convey the water through downstream properties, watercourses, channels or conduits to receive stormwater runoff from the proposed development site is demonstrated.

- (A) New Development. Any new development of land adding more than 5,000 square feet of new impervious surface shall provide stormwater management as outlined in this ordinance. This threshold is a cumulative amount of new square footage and may be reached over time in increments. At such time that a development site exceeds 5,000 cumulative square feet of new impervious surface the site will be required to be in full compliance with the Stormwater Runoff provisions of this ordinance.
- (B) Redevelopment. Any redevelopment adding more than 5,000 square feet of new impervious surface but disturbing less than 50% of the site shall provide stormwater management at the Water Quality Volume standard and the Channel Protection standard for the entire site. Peak flow rates that occur during rainfall events greater than the 1-year, 24-hour event (Channel Protection) shall not exceed the peak flow

rates of the existing site conditions at the time of redevelopment. This threshold is a cumulative amount of new square footage and may be reached over time in increments.

- (1) Any redevelopment disturbing 50% or more of a site shall be required to meet the same stormwater management standards as a new development. This threshold is a cumulative amount of new square footage and may be reached over time in increments.
- (C) Exemption. The following activities shall be exempted from meeting the stormwater management standards of this ordinance:
- (1) New development adding less than 5,000 square feet of new impervious surface.
 - (2) Redevelopment adding less than 5,000 square feet of new impervious surface and less than 50% site disturbance and if in compliance with a previously approved stormwater management plan.
 - (3) Removal and replacement of impervious surface exactly matching location and square feet as approved on previously submitted site plan.
 - (4) Agricultural activity that is consistent with an approved soil conservation plan or prepared approved by the appropriate agency, as applicable.
 - (5) Additions or modifications to single family structures.
 - (6) Repairs to any stormwater management infrastructure deemed necessary by the County.
 - (7) Linear projects such as road construction.

Section 3. Maintenance of Drainage Easement

Platted or recorded drainage easements shall be maintained by the property owner and shall not be obstructed. An obstruction shall include but not be limited to trees, fences, retaining walls, and structures. Obstructions placed within a drainage easement that cause drainage impacts may be removed by Polk County, with proper notice, if it obstructs the flow of water to the extent that immediate damage is to occur to any property.

Crossings through drainage easements shall be certified by an Iowa licensed engineer for proper sizing and placement. If the crossing is the sole egress/ingress to the property, it shall be designed to convey the 100-year peak flow, without overtopping.

Section 4. Runoff and Drainage

Drainage area and the outlet location of stormwater runoff in its natural, predeveloped or existing condition shall not be altered with development activity. Stormwater runoff must be controlled on site and cannot be diverted or backed up onto adjacent property owners.

- (A) Downspouts shall have an outlet onsite to control stormwater runoff and not diverted onto adjacent properties
- (B) Sump pumps shall daylight a minimum of ten (10) feet from any property line, a drainage easement or drainageway or stream to allow for infiltration of stormwater.

Section 5. Stormwater Detention Required

Developments not able to directly discharge all flows as indicated in Section 2 above shall

provide for detention and design the facility as follows:

- (A) If stormwater detention is required, the developer or applicant shall construct stormwater detention facilities designed by a registered professional engineer in the State of Iowa and meeting the criteria of this division.
- (B) Polk County shall determine if construction of stormwater detention facilities are required as a condition for plat approval, site plan approval or issuance of a grading or building permit. Factors to be considered in making such a determination include, but are not limited to:
 - (1) Preliminary plats, grading plans/sketches, or site plans/sketches submitted by the owner.
 - (2) Historical or potential localized drainage or flood problems adjacent to the site. This would include previous engineering studies that document flood elevations.
 - (3) Historical or potential watershed wide drainage or flooding problems
 - (4) Location of the site relative to existing drainageways and/or stormwater conveyances.
 - (5) Extent of proposed site increase in impervious surface area.
 - (6) Anticipated future development of the site or overall watershed.
 - (7) Existing site features which may facilitate or impede detention design and/or construction.
- (C) Polk County shall have no obligation to review, check, or otherwise verify the certified engineering calculations, method of design, or stormwater detention facility plans and as-built drawings required to be submitted. Acceptance of stormwater detention plans, calculations or as-built drawings and issuance or approval of any permit or plat shall be interpreted as satisfying the requiring that such plans, calculations and documents be submitted to Polk County. In no instance shall such permit issuance, plat approval or acceptance of such documents by Polk County be construed as approval of the Engineer's design methods, design calculations, detention facilities plan, as-built drawings, approval of detention construction, or concurrence by Polk County that all design criteria have been satisfied. The Engineer and developer shall be fully responsible for the design, construction, and damages resulting from concentrated discharge of stormwater detention facilities.

Section 6. Design Criteria

- (A) Water Quality Volume - To reduce potential increases in downstream erosion and water pollution, practices or techniques shall be employed that capture and treat runoff from a 1.25" rainfall event. ~~The volume can be infiltrated or detained and released over a 24-hour period.~~ This standard addresses approximately 90% of the rainfall events that occur in Central Iowa.
- (B) Channel Protection Volume – To reduce potential increases in erosion and stream degradation, practices or techniques shall be employed that provide extended detention of the runoff that occurs during 1-year, 24-hour rainfall event. The volume shall be detained and released at a minimum over 24 hours and a maximum of 48 hours. This standard addresses approximately 98% of the rainfall events that occur

in Central Iowa.

- (C) Overbank Flood Protection - To minimize surcharge of downstream storm sewer systems and reduce the frequency of flash flooding, practices and techniques shall be employed that limit peak release rates that are anticipated to occur post-development during the 2-, ~~5- and 10-~~year, 24-hour storm events to levels no greater than those expected to occur from natural conditions from a given site from the same storm event. The 5 and 10 year 24-hour storm events shall be limited to the natural conditions of the same storm event or the existing 5 year, 24-hour storm event at a minimum. Natural conditions are defined in Section 7 of this Division.
- (D) Extreme Flood Protection - To reduce the frequency and impacts caused by larger flood events, practices and techniques shall be employed that limit peak release rates that are anticipated to occur post-development during the 25-, 50- and 100-year, 24-hour storm events to levels no greater than those expected to occur from the natural conditions of the same storm event or the existing condition 5 year, 24-hour storm event at a minimum. Natural conditions from a given site from the same storm event. Natural conditions are defined in Section 7 of this division. If the 25 through 100 year storm events are released based on natural conditions, then the 5 through 10 year storm events must also be released as such.
- (E) Upstream Land - Detention of runoff generated by upstream land is not required, but shall be managed through the site by providing adequate conveyance and management infrastructure. ~~Release of runoff generated off-site shall not, however, be made in such a manner as to increase the allowable detention basin release rates.~~
- (F) Detention Basin Release - Release of stormwater runoff from the detention basins shall be made in such a manner as not to damage or devalue private or public properties.
- (G) Road ditches and road right-of-ways - Will not be utilized as detention basins.
- (H) Stormwater Management Plan (SWMP) - The purpose of a SWMP is to identify in detail how stormwater runoff will be managed from a site including specifications on what stormwater management techniques and facilities will be used and where they will be located. It is the policy of Polk County that stormwater management is planned and designed early in the development process so that developments are built in harmony with natural conditions versus forcing stormwater management to fit a development site design. The design engineer's SWMP and calculations contained therein for the site stormwater management shall include:
 - (1) Cover sheet including project name, location, engineer and developer contact information.
 - (2) Table of contents indicating sections and page numbers (page numbers shall be provided)
 - (3) Certification by a registered engineer that the stormwater detention facilities design and calculations were performed by them, or under their supervision, and that the facilities and design meet the criteria of this Division.
 - (4) Summary of any previous studies or master plans
 - (5) Natural or Existing Conditions and runoff analysis summary
 - (6) Description and explanation of storm water analysis (ie. computer generated

hydrographs, drainage area maps with topography, etc.)

- (7) Summary of stormwater management plan detailing compliance with design standards
 - (8) Calculation and tabulation that the site is in compliance with this stormwater runoff ordinance
 - (9) Natural Resources Inventory and wildlife areas (i.e. soils groups, forest cover, wetlands/prairie potholes, etc.)
 - (10) Soil Management Plan. The plan shall identify existing soil conditions, areas not to be disturbed, areas where top soil will be stripped and stockpiled, and identify if tillage, amendment and/or import will be needed.
 - (11) Streams, floodplains, and FEMA FIRM maps
 - (12) Environmentally Sensitive Areas, polluted areas, archeological and/or cultural resources
 - (13) Wellhead protection and drinking water supply management areas
 - (14) Areas of existing stormwater storage
 - (15) Geotechnical report, if applicable
- (l) Operation and Maintenance Plan - Prior to approval, the Engineer shall provide to the County an operation and maintenance plan detailing the operation and maintenance and repair procedures for all stormwater infrastructure. These plans will identify the parts of components of the stormwater infrastructure that will need maintained. The operation and maintenance plan will also identify the responsible party. The County shall have the right of access to all stormwater infrastructure and shall have the right, but not the obligation, to perform any necessary maintenance and repairs in the event the responsible party does not and shall charge or assess expense for said maintenance and repairs to the responsible party.

Section 7. Design Regulations

All detention facilities and improvements required by this Division shall comply with the following regulations. The Engineer shall review this Ordinance and Iowa SUDAS before determining methods to be used for peak flow and storage design calculations.

- (A) Natural Conditions - Defined as meadow in good condition, with Times of Concentrations (TCs) calculated and Curve Numbers (CNs) selected based on those natural surface conditions and drainage patterns. CNs shall be selected based on the Hydrologic Soil Group for site soils, but the weighted CNs used to determine allowable release rates for the site to be served by the detention practice shall not exceed a CN of 58 unless a report certified by a registered Professional Engineer in the State of Iowa, with their practice being geotechnical engineering, certifies that a higher CN is warranted, however, in no case shall the curve number exceed 71.
 - (1) Composite CN – Calculations shall be submitted to justify composite CNs used within the analysis.

- (B) Hydrologic Soil Group (HSG) - Soil Group information shall be determined from current County Soil maps as available through the NRCS. If a Soil Group type has not been identified for a given location, the natural condition shall be assumed to be HSG B. The post-developed condition shall be HSG C.
- (C) Time of Concentration (TC) –
- (1) Calculations are required for detention analysis for each scenario (e.g. natural or existing and developed) and for each drainage area. No assumed values will be accepted.
 - (2) When calculating TCs for intake calculations, at least one calculation shall be performed. Assumed values will be allowed for other intake drainage areas if they are similar in shape, size, and characteristic.
 - (3) Sheet flow will be limited to a maximum of 100 feet.
 - (4) Manning's "n" values shall be appropriate for the flow type and land use, existing or proposed, being calculated as shown in Iowa SUDAS Design Manual.
- (D) Routing and Detention Design – NRCS TR-55 Methodology shall be required with 24-hour duration distribution.
- (1) Details – Discharge locations and structures including weirs, multi-stage outlets, orifices, etc. shall be accompanied by a detail (plan and section views) within the submitted plans.
 - (2) Freeboard - All detention and retention basins shall require ~~one (1) foot~~two (2) feet of freeboard above the calculated 100-year high water elevation to the top of ~~dam~~the overflow.
- (E) Conveyance Management – Rational Method is allowed for intake and pipe design.
- (1) Interior Drainage – Site intakes and pipes shall be designed to manage the 10-yr storm, at a minimum, without ponding or by-pass. If an overland flow path to the stormwater management basin cannot be achieved, intakes and pipes shall be designed to manage up to the 100-year storm event and intake design shall minimize interior by-pass, ponding, and spread to a point where stormwater does not affect adjacent properties, parked vehicles, or onsite infrastructure.
- (F) Erosion Control & Seeding –
- (1) Erosion control measures shall be accompanied by calculations or product documentation justifying its use at storm sewer and/or detention outlets.
 - (2) Depth and dimension of permanent erosion control shall be specified and detailed.
 - (3) The type of seeding shall be specified by specific mix selected and listed by the Engineer.
 - (4) The type of mulching shall be specified.
 - (5) The type of Rolled Erosion Control Product (RECP) to be used, if applicable, shall be specified.

- (G) Outlet Control Structures. Outlet control structures shall be designed as simply as possible and shall operate automatically.
- (H) Dams – The Engineer shall review the Iowa DNR requirements for compliance with the requirement for an Iowa DNR Dam Permit, if applicable
- (I) Dry Bottom Basin. For basins designed without permanent pools:
 - (1) Interior Drainage. Provisions must be made to facilitate interior drainage, to include the provision of natural grades to outlet structures, longitudinal and transverse grades to perimeter drainage facilities or the installation of subsurface drains, so as to provide positive drainage of the basin.
 - (2) Cleaning. The basins shall be designed to allow periodic cleaning and removal of sediments, giving consideration for access of maintenance equipment.
- (J) Wet Basins. For basins designed with permanent pools:
 - (1) Depth for Fish. If fish are desired, at least one-quarter (25%) of the surface area of the permanent pool must have a minimum depth of ten (10) feet, basin should be at least 0.5 acres, and should limit the amount of area that is less than 3 ft. deep.
 - (2) Drawdown. For emergency purposes, dredging, cleaning, or shoreline maintenance, consideration shall be provided in the operation and maintenance plan for drawing down the normal pool.
 - (3) Pollution Abatement. Aeration facilities may be required when the quality of the influent and detention time would result in a lowering of dissolved oxygen content in the basin. Aeration during the winter months is not recommended for fish habitat and other wildlife considerations.
 - (4) Slopes. Approach slopes shall be at least 6:1 and shall be at least ten (10) feet wide and slope gently toward the basin. The side slopes shall be of non-erosive material with a slope of 4:1 or flatter. The ledge shall be ten (10) feet wide and slope gently toward the shore to prevent people or objects from sliding into deep water.
 - (5) Cleaning. The basins shall be designed to include forebays, sediment basins, etc. to control sediment. The operation and maintenance plan shall discuss how design depths of the basin will be maintained over time.
- (K) Building Regulations
 - (1) Roof-Top Storage. Roof storage shall only be allowed to accommodate Water Quality Volume treatment. Design specifications of such detention shall be a part of the site plan review process. These specifications shall include the depth and volume of storage, design of outlet devices and down drains, elevations of overflow scuppers, design loadings for the roof structure, and emergency overflow provisions. Rooftop storage shall not be permitted to drain directly into sanitary sewers or streets.
 - (2) Parking Lot Storage. Paved parking lots may be designed to provide temporary detention storage of stormwater on a portion of their surfaces not to exceed twenty-five (25) percent. Outlets shall be designed to empty the stored waters slowly, and depths of storage must be limited so as to prevent damage to parked

vehicles, 9 inches or less. Storage areas shall be posted with warning signs.

- (3) Underground Storage. All or a portion of the detention storage may be provided in structurally adequate underground detention facilities. Design must account for high water table conditions.
- (L) Stormwater Storage shall be permitted in the floodway fringe or setback area.. Stormwater Storage shall not be permitted in the stream channel, mapped floodway, or buffer.

Section 8. Maintenance of Facilities

The owner of the property shall be responsible for the maintenance of all stormwater detention facilities. For cluster and planned developments, the developer shall be responsible for the maintenance of all improvements until such time as eighty (80) percent of the development is completed or until such time as eighty (80) percent of the lots in the development have been sold or rented. The transfer of these improvements for the purpose of maintenance by the homeowners shall not be effected until the developer has received final approval, final inspection, and a certificate of compliance from the County. Thereafter, any retention and detention improvements shall be maintained in perpetuity and cannot be developed for any other use which would limit or cause to limit their use for detention. Detention facilities maintenance shall be placed as a deed restriction to guarantee the proper maintenance and function of detention basins.

Section 9. Inspection of Facilities

The developer's Engineer shall be required to inspect all drainage facilities under construction and post construction. Prior to occupying the building or premises, , the owner's Engineer shall submit as-built drawings of the stormwater detention facilities to Polk County. Drawings must bear the certification of a registered professional engineer stating the detention facilities will perform in accordance with the previously submitted design plans and computations. In addition, a registered engineer, employed by the County, may inspect all drainage facilities while under construction and post construction. When facilities are not constructed according to approved plans or maintained to comply with this ordinance, the County has the explicit authority to compel compliance and require correction of any situations which are not according to the Engineer's certified plans and computations.

Division 2. Erosion and Sediment Control

Section 1. General

Soil erosion contributes to the impairment of drainageways, increases road and storm sewer and open ditch maintenance costs, contributes to the destruction and obstruction to traveled roadways creating a potential hazard for vehicular traffic, and contributes to contamination and degradation of land surfaces and streams, flooding and dusty conditions. This chapter establishes requirements for grading, filling, fill material, and for obtaining Grading Permits in an effort to control erosion and sediment transport and to prevent pollution. These standards include the use of suitable fill material, stable slope construction, proper site drainage, pollution prevention and usability of public and private easements.

Section 2. Applicability

No person shall engage in land-disturbing activities that include fill in excess of three (3) feet, excavation exceeding five (5) feet or any grading or clearing activity that disturbs an area of five thousand (5,000) square feet within the unincorporated parts of Polk County unless they have received a Grading Permit. In addition, through the Iowa DNR, owners of certain construction sites are required to obtain permit coverage under rules contained in National Pollutant Discharge Elimination System General Permit No. 2, Storm Water Discharge Associated with Industrial Activity for Construction Activities ("General Permit No. 2").

Section 3. Additional Standards

- (A) General Permit No. 2 and the document entitled Iowa Construction Site Erosion Control Manual, issued and administered by the Iowa DNR, are hereby adopted and by reference made part of this Section as if fully set forth herein. Any act these documents require or prohibit, is required or prohibited by this Chapter. Any future amendments, revisions, or modifications to these documents, incorporated herein, are intended to be made a part of this Section.
- (B) In new subdivisions at time of roadway and/or utility acceptance all erosion control measures shall be in place according to SWPPP and maintained as part of the Erosion Control Bond.
- (C) Any construction that will disturb the soil requires erosion control protection measures shall be in place. This includes perimeter protection of disturbed construction area and gravel entrance drive a minimum of 25 feet from public roadway. An exception to this requirement may be granted by the Zoning Administrator if existing ground cover or entrance conditions do not warrant protection. Additional protection measures may be required, if existing measures are not providing enough protection as determined by the Zoning Administrator or designee.

Section 4. Grading Permit Required

Any property or development sites that engages in land-disturbing activities; including fill in excess of three (3) feet, excavation exceeding five (5) feet or any grading or clearing activity that disturbs an area of five thousand (5,000) square feet within the unincorporated parts shall obtain a Grading Permit prior to any land-disturbing activities.

All Grading Permits shall be issued by Polk County Public Works upon approval of a completed Application for Grading Permit on a form provided by the County. The application shall be signed by the title holder of the site, together with the applicant, if different from the title holder.

Properties required to obtain Grading Permit shall comply with requirements for Sites Covered by the Iowa DNR NPDES General Permit No. 2, herein as required.

Grading Permits shall be valid for a period of one year from the date of issuance and must be renewed by resubmitting applicable information and fee.

A Grading Permit Application shall include the following:

- (A) A completed Application for Grading Permit on a form provided by the County
- (B) A Grading Plan prepared by a licensed Engineer, unless deemed unnecessary by Zoning Administrator
- (C) A SWPPP conforming to:
 - (1) the requirements of this chapter, and the requirements of NPDES General Permit No. 2
 - (2) If a SWPPP for the site has previously been submitted to the County and has not been modified, the applicant shall submit a signed and dated statement that the SWPPP has not been modified, in which case the SWPPP need not be resubmitted.
- (D) Payment of the permit fee.
- (E) The permittee shall provide all material submitted as part of a Notice of Discontinuation when such a notice is filed with the Iowa DNR.

Section 5. Other Permits Required and Exceptions

- (A) Other Permits Required.
 - (1) Filling or construction within floodplain limits as established by the Federal Emergency Management Agency regulated in the Polk County Zoning Ordinance will require a separate additional permit under this ordinance, in addition to the permits required by this chapter.
 - (2) For work that is specifically covered by a County Demolition Permit, Building Permit, or approved plan of improvements containing a NPDES Permit SWPPP, a Grading Permit is not required. However, site filling and grading done pursuant to these approved permits and plans shall meet the requirements of this chapter.

Section 6. Exemptions

The following activities are exempt from the permit requirements of this chapter:

- (A) Crop production activities;
- (B) Cemetery graves;
- (C) Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards;
- (D) Public improvements.

Section 7. Additional Requirements

(A) Filling Requirements

- (1) Clearing and grubbing shall be performed according to Statewide Urban Design Standards
- (2) Fill material shall be placed according to the SWPPP.
- (3) Interim filling during construction shall be placed in a safe manner. Slope stabilization, inspection and maintenance of erosion control, and soil stabilization where work has been suspended shall be according to SUDAS.
- (4) Finish grading shall be according to plan.

(B) Unacceptable Fill Materials.

Fill materials shall not include hazardous waste, synthetic material, metal, and organic material other than natural topsoil incidental to excavation except as noted below.

- (1) Concrete, brick, tile, and other manufactured inert material shall not be greater than 18" in its greatest dimension.
- (2) or where the final location will be below the known water table.

(C) Tree Removal

- (1) Trees may not be buried.
- (2) Trees may be burned with a Burning Permit approved by the Air Quality Division of Polk County Public Works on the site they originate from, provided separation requirements from nearby dwelling units can be met and proper notification is completed. Trees shall not be brought onsite for burning.

(D) Concrete Waste Management for any concrete activity

- (1) Washout facilities prevent runoff of concrete wash water which is alkaline and contains high levels of chromium and can increase the pH of area waters.
 - (a) Concrete washout waste must be contained in washout areas. The washout areas shall contain the concrete and liquids when the chutes of concrete mixers and hoppers of concrete pumps are rinsed out after delivery.
 - (b) Saw-cut slurry must be vacuumed or shoveled and removed from the site or disposed of in a concrete washout area.
- (2) Washout areas consolidate solids for easier disposal. These washout areas must be removed and/or cleaned, and dry waste concrete must be disposed of properly.

Section 8. Stormwater Pollution Prevention Plan (SWPPP) Required.

Sites with a disturbed area greater than or equal to one acre shall require an acceptable SWPPP meeting the requirements of this chapter, certified by a design professional.

(A) SWPPP Requirements

Every SWPPP submitted with a grading permit application shall meet the following:

- (1) Contain complete 24-hour contact information for the site owner and the person responsible for providing and maintaining sedimentation and erosion control for the site. The permittee shall inform the Public Works Department of any change in this contact information.
- (2) Comply with all current minimum mandatory requirements for SWPPPs promulgated by the Iowa DNR in connection with NPDES General Permit No. 2, including those published as Summary Guidance for General Permit No. 2 by the Iowa DNR.
- (3) Comply with all other applicable state or federal permit requirements in existence at the time of application.
- (4) Include a drainage plan accompanied by a drainage report. The drainage report shall at a minimum demonstrate the design of proposed grading, erosion, and sediment control if constructed per plan is not expected to adversely impact adjacent properties.
- (5) Be prepared by a design professional; and
- (6) Include within the SWPPP a signed and dated certification by the person preparing the SWPPP that the SWPPP complies with all necessary requirements.
- (7) The SWPPP shall only be modified by a design professional as required in NPDES General Permit No. 2.

Section 9. NPDES General Permit No. 2 Required.

The County shall not allow any land-disturbing activity on a site for which coverage under General Permit No. 2 is required, nor shall the County issue any permit, authorization, or license allowing such activity, until the site owner has obtained coverage for the site under General Permit No. 2 from the Iowa DNR.

- (A) Any responsible party who is required to obtain, or has obtained, coverage under General Permit No. 2 shall comply with all the requirements of General Permit No. 2. Failure to do so is a violation of this Section.
- (B) Completion of work shown in a Stormwater Pollution Prevention Plan submitted under the provisions of General Permit No. 2 is a requirement of General Permit No. 2 and failure to complete such work is a violation of this Section.
- (C) For sites covered under General Permit No. 2 where the ownership changes, the County must be notified of the title transfer within 30 days, except in the case of single-lot sales, a copy of the notice of transfer shall be included in the SWPPP. For sites that are part of a larger common plan of development such as a housing or commercial development project, if a permittee transfers ownership of all or any part of property subject to a Grading Permit, both the permittee and transferee shall be responsible for compliance with the provisions of General Permit No. 2 and the Grading Permit for that portion of the project which has been transferred.

Section 10. Inspection, Notice to Comply and Notice of Violation

- (A) Inspections.

The County may inspect the site in response to reports from third parties or at other times, at the County's discretion.

- (1) Right of Entry. The Zoning Administrator and authorized employees of the county shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The applicant, owner, or titleholder shall be deemed to have consented to such entry by submission of an application for any permit or plan identified in this chapter. Barring or delaying such inspection is a violation of this section.
- (2) The Zoning Administrator or designee shall have access to and be able to copy any records that must be kept under the conditions of General Permit No. 2 within three business hours, where a business hour is any hour between 7:00 AM and 5:00 PM on a non-holiday weekday.

(B) Notice to Comply.

The County may issue a Notice to comply with the responsible party or parties, describing any problems and specifying a date and time by which compliance must be achieved. Failure to achieve compliance by the specified date and time is a violation of this Section.

(C) Notice of Violation.

The Zoning Administrator shall, upon determination of any violation of this Section, issue a Notice of Violation in writing to the responsible party or parties, indicating the nature of the violation and ordering the action necessary to correct it.

- (1) The Notice of Violation may:
 - (a) Order the discontinuance of any illegal work, specifying a date and time for such discontinuance; and
 - (b) Require the repair and cleanup of any damage done due to failure to comply with General Permit No. 2, specifying a date and time for completion of repair and cleanup; and
 - (c) Order the withholding of any building or occupancy permits for the site; and
 - (d) Order the discontinuance of any or all work at the site, including at the Administrators discretion work not directly related to the cause and prevention of erosion and sedimentation, except work necessary to achieve compliance and to repair and clean up damage, specifying a date and time for such discontinuance to commence and conditions for such discontinuance to cease.
- (2) Failure to comply with any order in a Notice of Violation is an additional violation. Each day of such failure constitutes a separate violation.
- (3) The Administrator may modify a Notice of Violation and may authorize, in writing, an extension to the specified dates and times therein.
- (4) The Notice of Violation shall, where necessary or appropriate, recommend to the County Attorney the institution of legal or equitable actions that may be required for the enforcement of this Section.

- (5) Communication to a responsible party's employee, partner, attorney, agent, contractor, or subcontractor shall be regarded as communication to the responsible party for the purpose of this section.
- (6) Communication to one responsible party shall be regarded as communication to each responsible party for the purpose of this section.

Section 11. Repair and Clean-Up of Damage.

For any site, whether or not covered by a Grading Permit or other stormwater discharge permit, the County may clean up eroded sediment or tracked soil deposited on public property if:

- (A) Corrective action has not been completed within 24 hours
- (B) In the judgment of the Public Works Department, damage to the environment is ongoing and prompt corrective action would be intended to reduce such damage.
- (C) If the County cleans up such material deposited off site, the Public Works Department will invoice the responsible party or parties for the County's actual costs including overhead, which may be recorded as an assessment against the property and constitute a lien thereon.
- (D) Failure to pay an invoice under this Article within 30 days shall constitute a violation of this Ordinance.

Section 12. Enforcement

The County shall revoke the Grading Permit or decline renewal if unacceptable materials are being deposited at the site, or if the permittee has failed to comply with any of the regulations set forth in this chapter, or any requirement of law, statute or regulation.

- (A) Violation of any provision of this ordinance may be enforced by civil action including an action for injunctive relief.
- (B) In any civil enforcement action, administrative or judicial, the County shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this ordinance.

Section 13. Fees.

The Board of Supervisors may establish and modify fees by resolution for permit applications, permit renewal applications. A submittal shall not be considered unless the appropriate fee has been submitted with all appropriate documentation.

Junkyard. Any place not fully enclosed in a building and which encompasses an area of 200 square feet or more, used in whole or in part for the storage, salvage or deposit of junk or used lumber whether in connection with a business or not, or any place where more than two (2) inoperable vehicles, or used parts and materials thereof which exceed 240 cubic feet, are stored or deposited. For the purposes of this Ordinance, junkyard shall include salvage yard, wrecking yard, used lumberyard and places for storage of salvaged wood.

Jurisdiction. Polk County, Iowa.

Jurisdiction Engineer. A licensed engineer designated by the Governing Body to furnish engineering assistance for the administration of this Ordinance.

Jurisdiction Land Surveyor. A licensed land surveyor designated by the Governing Body to furnish land surveying assistance for the administration of this Ordinance.

Kenel. A building, structure or use where four (4) or more dogs, cats or other small domesticated animals are kept for sale, breeding or boarding.

Land-disturbing activities. Clearing, grading, excavating, filling, or removal of vegetation, paving, or buildings, exposing earthen material on a site.

Landscape Surface Area. Surface area of land not covered by any impervious surface that is maintained to support plant life.

Landscape Surface Ratio. The ratio derived by dividing the landscaped surface area by the base site area.

Livestock. For purposes of applying this ordinance, "livestock" shall include but not be limited to ~~animals or fowl, which are being produced primarily for sale or use as food or food products, such as: cattle, pigs, sheep, goats, poultry, birds, fish, horses, donkeys, mules, and farm deer as defined in Iowa Code 481A.1~~an animal, irrespective of its classification as miniature or otherwise, belonging to any of the following groups: Bovinedae, caprineae, equine, ovine, or perinesuidae, ostriches, rheas, emus,; farm deer as defined in Iowa Code section 170.1,; or poultry, including ostriches, rheas, emus.

Lot. A parcel of land having fixed boundaries and identified by number or letter designation on a survey or subdivision plat.

Lot Depth. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

Lot Area. The area contained within the boundary lines of a lot excluding easements for publicly dedicated or accepted rights-of-way.

Lot, Corner. A lot abutting two (2) or more streets at their intersection.

Lot Frontage. Width measured at the street lot line. When a lot has more than one (1) street lot line, lot width shall be measured, and the minimum lot width required by this Ordinance shall be provided, at each such line.

Lot Line. A line bounding a lot, which divides one lot from another or from a street.

Lot Line, Front. In the case of a lot abutting only one (1) street, it is the property line or street right-of-way line separating such lot from such street. In the case of a double frontage lot, each property line or street right-of-way line separating such lot from a street shall be

considered to be the front lot line.

Division 7. Animal Regulations

Section 1. Keeping of Animals

- (A) All animals shall be kept in a manner so as to not be a nuisance to the public. Animals not confined to the owner's property and animals kept in such a manner as to affect the public health or welfare shall be considered a nuisance.
- (B) Fenced areas confining livestock, except poultry but including ostriches, emus and rheas, shall be located 100 feet or more from neighboring dwelling unit.
- (C) Structures enclosing 120 square feet or more of ground floor area and which shelter ~~animals~~ livestock, except poultry but including ostriches, emus and rheas, except dogs and cats, shall be located 150 feet or more from neighboring dwelling unit(s). ~~All animals shall be provided shelter within a minimum three sided structure.~~
- (D) The following regulations shall apply to the keeping of animals ~~for personal use~~ on all parcels unless otherwise permitted.
- (1) No more than three adult dogs (6 months or older) and three adult cats (4 months or older) may be kept by the occupant. There is no limit on the permitted number of juvenile (less than 6 months old) animals permitted on the property provided they are offspring to the adults currently on the property.
- (2) On lots smaller than one (1) acre, any combination not to exceed twelve (12) ~~poultry~~ poultry (excluding ostriches, emus and rheas, which are regulated below as livestock), adult rabbits or other animals belonging to the Leporidae species, or other similar small domesticated animals is permitted. On parcels of one (1) acre in size less than three (3) acres in size, any combination not to exceed, twenty four (24) adult ~~rabbits, poultry or other animals as described above~~ small domesticated animals is permitted. For every additional acre in excess of three (3) acres, an additional twenty four (24) adult animals as described above shall be permitted. There is no limit on the permitted number of juvenile (less than 6 months old) animals permitted on the property provided they are offspring to ~~the permitted~~ adults currently on the property.
- (3) No livestock, including (excluding poultry, except as included in the following definition); including pigs, cattle, sheep, goats, horses but not limited to animals belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus and farm deer, or other similar large domesticated animals, shall be kept on parcels smaller than one (1) acres. On parcels of one (1) acres in size or greater, one (1) such adult animal is permitted. For every additional acre in excess of one (1) acre, any combination not to exceed one (1) additional adult animal in this class shall be permitted. There is no limit on the permitted number of juvenile (less than 6 months old) animals permitted on the property parcel provided they are offspring to the permitted adult s currently on the property.
- (4) On parcels zoned AG, AT or ER and ten (10) acres or more in size, there is no limit on the number of livestock kept for private use.
- ~~(5) Animals kept for commercial purposes are regulated under specific use regulations.~~

Section 3. Easement Encroachments

Utility and drainage easements shall be kept free and clear of any buildings or other improvements except as follows:

- (A) Fences, at grade landscaping, and pavement, which do not obstruct drainage within the easement, water related control structures and soil erosion measures may be located in utility and drainage easements, if all other zoning conditions can be met. However, fences are specifically prohibited from being placed within any established stormwater detention easement
- (B) Polk County shall not be liable for damages to an improvement located within an easement area caused by installation, repair, maintenance or replacement of utilities located therein by other governmental agencies or private utilities.

Division 5. Opacity for Bufferyards

The opacity values contained in the Table 10.3 refer to the bufferyard requirements and standards contained in the Table 10.4 Bufferyard Standards. These bufferyards are required between adjacent zoning districts or within the same zoning district between different development options. Passive recreational uses and golf courses, excluding the clubhouse area, parking areas, or any other commercial activity that may be a nuisance, shall be exempt from providing peripheral bufferyards.

Table 10.3 Peripheral Bufferyards: Required Opacity Values

Subject Zoning District & Development Option	Adjacent Zoning District Development Option													
	AG,AT			ER, RR, LDR			MDR, HDR, MU			NB, GC	M	LI	HI	OS
	SF	OR	NR	SF	OR	NR	SF	OR	NR	All	All	All	All	All
AG, AT														
SF	NA	NA	X	NA	NA	X	NA	NA	X	X	X	X	X	N
OR	Lt	NA	Lt	Lt	NA	Lt	Lt	NA	M	Md	Hv	Hv	Hv	N
NR	M	Lt	NA	M	Lt	NA	Md	Lt	Lt	Lt	Md	Lt	M	N
ER, RR, LDR														
SF	NA	NA	X	NA	NA	X	NA	NA	X	X	X	X	X	N
OR	Lt	NA	Lt	Lt	NA	Lt	Lt	Lt	M	Md	Hv	Hv	Hv	N
NR	M	Lt	Lt	M	Lt	NA	Lt	Lt	Lt	Lt	Md	Lt	M	N
MDR, HDR, MU														
SF	NA	NA	X	NA	NA	X	NA	NA	X	X	X	X	X	N
OR	M	Lt	Lt	Lt	Lt	Lt	Lt	NA	Lt	Lt	Md	Hv	Hv	Lt
NR	M	M	Lt	M	Lt	Lt	Lt	Lt	NA	Lt	Md	Lt	M	Lt
NB, GC														
All	M	M	Lt	M	M	Lt	Md	M	Lt	NA	Lt	Lt	M	Lt
MH														
All	Hv	Hv	M	Hv	Hv	M	Hv	M	M	Md	NA	M	M	Lt
LI														
All	Hv	Hv	M	Hv	Hv	M	Hv	M	Lt	Lt	Md	NA	Lt	Lt
HI														
All	Hv	Hv	Hv	Hv	Hv	Hv	Hv	Hv	Hv	Md	Md	Lt	NA	Lt
OS														
All	NA	NA	NA	NA	NA	NA	Lt	Lt	Lt	Lt	Lt	Lt	Lt	N

Key to Table 10.3

Abbreviations	Bufferyard Type
SF: Single Family	NA: None Required
OR: Other Residential Uses	Lt.: Light (Opacity .15)
NR: Nonresidential Uses	Md.: Moderate (Opacity .40)
ALL: All Nonresidential Uses	Hv.: Heavy (Opacity .70)



Article 22. Administration and Fees

Division 1. Zoning Administrator

The Zoning Administrator, as designated by the Board of Supervisors, shall have the principal responsibility of administering this Ordinance. The Zoning Administrator may delegate such administrative duties to staff as appropriate. The Zoning Administrator shall do, or cause to be done, the following:

- (A) **Inspections.** Conduct inspections of use of land to determine compliance with the terms of this Ordinance.
- (B) **Record-keeping.** Maintain permanent and current records of this Ordinance, including but not limited to all conditional uses, variances, appeals, and applications therefore.
- (C) **Public information.** Provide and maintain a public information record relative to all matters arising under this Ordinance.
- (D) **Applications.** Accept and review applications for development required under this Ordinance.
- (E) **Recommendations.** Make reports and recommendations to the Planning and Zoning Commission, the Board of Adjustment, and the Board of Supervisors on applications and actions reviewed by each body.
- (F) **Floodplain Administrator.** Review all floodplain development permit applications to ensure that the provisions of this Ordinance will be met and all necessary permits have been obtained from federal, state, and local governmental agencies.
- (G) **Planning and Zoning Commission.** Forward to the Planning and Zoning Commission copies of all applications for plats, amendments to this Ordinance, and other matters on which the Planning and Zoning Commission is required to review.
- (H) **Board of Adjustment.** Forward to the Board of Adjustment applications for appeals, variances, conditional uses, and other matters on which the Board of Adjustment is required to pass under this Ordinance
- (I) **Board of Supervisors.** Forward recommendations from the Planning and Zoning Commission and the Board of Adjustment to the Board of Supervisors on matters on which the Board of Supervisors is required to pass under this Ordinance
- (J) **Other actions.** Such other reasonable and appropriate actions necessary to effectively administer and enforce this Ordinance when not prohibited nor assigned to other agents by the terms of this Ordinance.
- (K) **Fees.** Charge and receive such reasonable fees, as set by the Board of Supervisors from time to time, to help defray administrative costs related to reviewing applications, rezoning, conditional uses, appeals, variances, and other staff functions required under this Ordinance.
- (L) **Interpretations.** Make interpretations as to the administration of this Ordinance as provided for in this Ordinance.
- (M) Appeals of decisions. Any person affected by a decision of the Zoning Administrator in the enforcement of this Ordinance may appeal said decision to the Board of Adjustment.
- (N) Disability-based Waivers. Consider and may issue waivers of specified zoning ordinance requirements to individuals with a disability, or for that individual's property, to maintain Polk County's compliance with the Americans with Disabilities Act, the Federal Fair Housing Act,

Section 504 of the Rehabilitation Act of 1973, and the Iowa Civil Rights Act. For an individual to qualify for a waiver of zoning restrictions, the zoning administrator must determine, on the basis of proof submitted by the applicant, all of the following conditions have been met:

- (1) The individual has a disability;
- (2) The waiver, or another less-extensive accommodation, is necessary for Polk County to remain in compliance with the aforementioned federal and state laws;
- (3) The waiver, or another less-extensive accommodation, is the minimum accommodation necessary for Polk County to remain in compliance with the aforementioned federal and state laws;
- (4) The requested accommodation will give the individual with a disability adequate relief; and
- (5) The requested accommodation will not unreasonably undermine the basic purposes the Polk County Zoning Ordinance seeks to achieve.

Any waiver granted pursuant to this section shall only apply to the individual with a disability and that individual's property. Upon change in ownership or tenancy, the waiver shall terminate.

Appeals from a denial of waiver pursuant to this section may be appealed to the Polk County Board of Adjustment pursuant to Division 3 of this Article.