



Agenda Item:

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COUNCIL COMMUNICATION

City Manager's Office

GENERAL INFORMATION

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Roll Call No.:

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SUBJECT—

Revisions to Chapter 42 and Chapter 18 of the City Code regarding construction site run-off and illicit discharges requirements of the City's National Pollution Discharge Elimination System and maintenance of drainage facilities.

SYNOPSIS—

Revisions to Chapter 42 and Chapter 18 of the City Code to regulate construction site run-off and illicit discharges into the City's municipal separate storm sewer system as required by the National Pollution Discharge Elimination System and to establish the limits and scope of City responsibility for maintenance of drainage facilities and to provide for administrative penalties for failure of compliance.

FISCAL IMPACT—

Revenue from administrative penalties will be deposited in the Storm Water Utility.

RECOMMENDATION—

Approval

BACKGROUND—

Since 1972, the Clean Water Act and its amendments have prohibited the discharge of any pollutant to a water of the United States unless it has been authorized by a national pollutant discharge elimination system (NPDES) permit. The NPDES program is designed to track point sources, single identifiable

sources that discharge pollutants into the environment, and require the implementation of controls necessary to minimize the discharge of pollutants.

Phase I was promulgated on November 16, 1990. The Phase I regulations required large sources of stormwater discharge to apply for NPDES permits. Large sources include medium and large municipal storm sewer systems usually serving 100,000 people or more as well as several categories of industrial activity. The NPDES permits require cities to develop a stormwater management program, track and oversee industrial facilities that are also regulated under the NPDES stormwater program, conduct monitoring, and submit periodic reports.

In response to, and as required by, the NPDES permit issued to the City of Des Moines, Public Works is proposing revisions to Chapter 42 of the City Code addressing construction site run-off and illicit discharges. The proposed revisions provide regulation to reduce pollutants caused by run-off from construction activities and non-stormwater discharges by controlling the introduction of pollutants into the city's municipal separate storm sewer system. The proposed revisions provide for administrative penalties and as well as an administrative hearing process. The proposed revisions to Chapter 18 are specific to privies, wells, vaults, and septic tank systems and support the prohibition of illicit discharges. These changes also provide administrative penalties for improper maintenance.

For the purpose of establishing a coherent policy regarding maintenance of drainageways and facilities, the proposed revisions to Chapter 42 also include provisions that stipulate responsibilities for maintenance of drainage facilities.

The changes specify the City's responsibilities for drainage ways and facilities and those responsibilities of other parties. This policy states that the City will perform major and routine maintenance of storm water drainage facilities on City property, in City maintained street rights-of-way, and in permanent storm water drainage easement areas that have been accepted by the City and in which the City has reserved the right to repair, replace and maintain those facilities and has explicitly accepted responsibility for routine maintenance. The proposed revisions also provide for City maintenance of public drainage ways on private property, private drainage ways, and private drainage pipes under specific conditions.

Major and routine maintenance of all other storm water drainage facilities situated on private property are not the responsibility of the City and shall be the responsibility of the owners of the properties upon which such facilities are located or of another pre-designated party. Related, it is incumbent upon the City to work with developers during the subdivision review process to ensure that workable maintenance plans are in place. As such, as the Community Development Department reviews new subdivision plats and storm water plans for new development, care will be taken to avoid creating undue hardships on private owners. For example, when appropriate and feasible, homeowners associations may be asked to share maintenance responsibilities. Chapter 42 also includes administrative penalties and an administrative hearing process for the failure by a private party to adequately maintain a drainage facility.