

ORDINANCE NO. 716

AN ORDINANCE ADOPTING STORM WATER REGULATIONS FOR THE CITY OF WEST BRANCH, IOWA.

WHEREAS, the City Council of the City of West Branch has heretofore deemed it necessary and desirable to promulgate regulations pertaining to storm water to protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDIANED:

Section 1. Amendment. The Code of Ordinances of the City of West Branch, Cedar County, Iowa, is hereby amended by incorporating a chapter entitled "Storm Water Regulations", which reads as shown on the attached Exhibit "A."

Section 2. Conflicts. All ordinances or parts of ordinances that are in conflict with this ordinance are hereby repealed.

Section 3. Adjudication. If any section, provision or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any part, section or provision thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date. This ordinance shall be in full force in effect upon passage of this ordinance and publication as required by law.

First Reading: August 19, 2013  
Second Reading: September 3, 2013  
Third Reading: September 16, 2013

  
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Mark Worrell, Mayor

ATTEST:

  
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Matt Muckler, City Administrator/Clerk

## EXHIBIT "A"

### STORM WATER REGULATIONS

#### SECTION 1. SHORT TITLE.

This title of this chapter shall "Storm Water Regulations."

#### SECTION 2. PURPOSE.

It is the purpose of this chapter to:

1. Protect, maintain and enhance the environment of the City and the public health, safety and welfare of the public by controlling discharges of pollutants into the City's storm water system.
2. To establish legal authority to carry out inspections, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

#### SECTION 3. DEFINITIONS.

1. "Best Management Practices" (BMPs) mean physical, structural and/or management practices that, when used singly or in combination, control activities including, but not limited to site run-off, spillage and leaks and waste disposal from entering the storm water system. BMPs may include a schedule of activities, prohibitions and practices, and design standards.
2. "City" means the City of West Branch, Iowa.
3. "City Administrator" means the City Administrator of the City or his/her designee.
4. "Common plan of development" means a parcel, less than an acre in size, which is platted as part of a larger parcel for development."
5. "Facility" means premises on which industrial, commercial and/or land disturbing activity is occurring.
6. "Hazardous Materials" means any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
7. "Illicit Discharge" means any direct or indirect non-storm water discharge to the storm drain system, except as exempted in this chapter.

8. "Illicit connections." An illicit connection is defined as either of the following:
  - a. Any drain or conveyance , whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system, including, but not limited to any conveyances which allow non-storm water discharge, including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm water drainage system.
  - b. Any drain or conveyance connected from a commercial or residential land use to the storm drain system which has not be documented on plans or equivalent records and approved by the City Engineer.
9. "Land Disturbing Activity" means any activity that results in the movement of earth or a change in the existing soil cover (both vegetative and non-vegetative) or the existing topography. Land disturbing activity includes, but is not limited to, clearing grading, filling, excavation, or addition or replacement of impervious surface.
10. "Non-Storm Water Discharge" means any discharge to the storm drain system that is not entirely composed entirely of storm water.
11. "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
12. "Pollutant" means anything which causes or contributes to pollution. Pollutants may include , but are not limited to: paints, varnishes and solvents, oils and other automotive fluids, non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal cloriform and pathogens, dissolved or particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (specifically including concrete residue); and noxious or offensive matter of any kind.
13. "Site" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips where land disturbing activity occurs.
14. "Storm drain system: means publicly-owned facilities by which storm water is collected and/or conveyed, including, but not limited to any roads with drainage systems, municipal streets, gutters, discharges, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and man-made or altered drainage channels, reservoirs or other drainage structures.
15. "Storm water" means any surface, flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

16. "Wastewater" means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **SECTION 3. ADMINISTRATION.**

The City Administrator shall administer, implement and enforce the provisions of this chapter. Any powers granted to or imposed upon the City Administrator may be delegated to other persons or entities acting in the beneficial interest or in the employ of the City.

### **SECTION 4. ULTIMATE RESPONSIBILITY.**

The standards set forth herein and promulgated to this chapter are minimum standards; therefore, this chapter does not intend that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### **SECTION 5. DISCHARGE PROHIBITIONS.**

No person shall discharge or cause to be discharged into the storm drain system or watercourses any materials, including, but not limited to pollutants or waters containing any pollutants or waters containing pollutants other than storm water.

The following discharges are exempt from the discharge prohibitions: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped water, foundation or footing drains, crawl space pumps, fire hydrant flushing, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat, wetland flows, firefighting activities, and any other water source not containing pollution.

### **SECTION 6. ILLICIT CONNECTIONS.**

It shall be unlawful for any person to cause the construction, use or continued existence of an illicit connection to the storm drain system. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under law or prevailing practices at the time of the connection.

### **SECTION 7. CONDITION PRECEDENT TO A BUILDING PERMIT; STOP WORK ORDER.**

As a condition precedent to the obtaining of a building permit pursuant to Chapter \_\_\_ of this Code of Ordinances, any person performing any land disturbing activity of more than one acre, or as part of a common plan of development, shall include in its application for said permit a plan to keep sediment and other materials from leaving the Site on which the land disturbing activity shall occur. The City Administrator is not permitted to issue a building permit until such Site has been inspected to ensure compliance with the person's plan to keep sediment and other materials on the Site.

In addition, during the construction process, the City may periodically, upon showing proper credentials, inspect the Site to ensure that the BMP's outlined in the person's building permit application are still in place and are functioning property. The City Administrator may issue a Stop Work Order to the person in the event that the person does not correct any deficiencies within three (3) days of written notice by the City Administrator.

**SECTION 8. RIGHT OF ENTRY.**

The City Administrator or other duly authorized employees or contractors of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation and monitoring the property in accordance with the provisions of this chapter.

**SECTION 9. NOTICE OF VIOLATION; PENALTIES.**

1. The City Administrator is hereby authorized to issue a Notice of Violation upon any person who violates a provision of this chapter.
2. If the person to whom the Notice of Violation is sent fails to correct the violation within a reasonable time as determined by the City Administrator, the City Administrator shall proceed with subparagraph 3 below.
3. Any person who fails to perform an act required by this chapter or who commits an act which is prohibited by this chapter or who resists the enforcement of this chapter shall be guilty of a simple misdemeanor punishable by a fine or imprisonment as provided for in this Code of Ordinances.
4. Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter or who resists enforcement of any section of this chapter shall be deemed to have committed a municipal infraction in accordance with Chapter 4 of this Code of Ordinances.

**SECTION 10. NUISANCE.**

Any violation of this chapter shall be deemed to be a public nuisance injurious to the public health, safety and welfare. The City Attorney, in addition to the penalties outlined in Section 9 above, may correct said violations as a nuisance pursuant to Chapter 50 of this Code of Ordinances.

**SECTION 11. PENALTIES NOT EXCLUSIVE.**

The remedies provided in this chapter and otherwise in this Code of Ordinances are not exclusive, or in lieu of the rights and remedies the City may have at law of in equity.

**SECTION 12. APPEALS.**

Any person receiving a Notice of Violation may appeal the determination of the City Administrator to the City Council. The notice of appeal must be filed within five (5) days from the date of the Notice of Violation with the City Clerk. The hearing on the appeal will take place at the next regularly scheduled City Council meeting where proper notice can be made in accordance with applicable law. If the person who received the Notice of Violation does not agree with the City Council's ruling in appeal, the person may appeal to a court of competent jurisdiction.

#### **SECTION 13. ENFORCEMENT AFTER APPEAL.**

If the violation has not been corrected as set forth in the Notice of Violation, or, in the event of an appeal, within three (3) days after the decision of the City Council upholding the decision of the City Administrator, then representatives of the City may enter upon the subject property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor, bearing proper credentials or identification, to enter upon the premises for the purposes set forth above.

#### **SECTION 14. COST OF ABATEMENT OF THE VIOLATION.**

Within ten (10) days after abatement of the violation, the owner will be notified of the cost of abatement, including administrative costs. If the amount due is not paid in a timely manner as determined by the decision of the City Administrator or after the expiration of the time of appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.