

ORDINANCE No. _____

**AN ORDINANCE AMENDING THE JOHNSON COUNTY UNIFIED DEVELOPMENT
ORDINANCE TO UPDATE AND MODIFY CERTAIN DEFINITIONS AND REQUIREMENTS
FOR ENVIRONMENTAL REGULATIONS, GRADING PERMITS, EROSION CONTROL AND
SITE STABILIZATION.**

Section I. Purpose. The Purpose of this ordinance is to further the stated purpose to the Unified Development Ordinance for Johnson County by updating and modifying certain definitions and requirements for Environmental Regulations including Sensitive Areas, Stormwater Management, Erosion & Sediment Control; Grading Permits, and Site Stabilization.

Section II. Amendments.

- A. Article 8:1.23.BB.12.a is hereby amended by adding the word “connected” between the words “all” and “impervious”; and by replacing the word “including” between the words “surfaces,” and “internal” with the word “excluding”
- B. Article 8:1.25.B.2 is hereby amended by adding the words “final site stabilization has been achieved and” after the words “such time that”.
- C. Article 8:1.25.B.2.c.i is hereby amended by adding the words “or improvements” after the word “infrastructure”.
- D. Article 8:1.26.A.2 is hereby amended by adding the words “and sediment” between the words “erosion” and “control”.
- E. Article 8:1.26.A.3 is hereby amended by deleting sections 8:1.26.A.3.a and 8:1.26.A.3.b in their entirety (said deletion includes subsection 8:1.26.A.3.a.i) and replacing them with the following:
 - a. A grading permit is required prior to the commencement of ground-disturbing activities for linear utility or infrastructure projects, such as pipelines or transmission lines, that are located outside of any public road Right-of-Way and that propose disturbing an area greater than one-half (1/2) acre.
 - b. A grading permit may be issued prior to approval of a plat or Site Plan to allow for commencement of ground-disturbing activities on sites preparing to establish a use which is in compliance with the zoning district in which the property is located.
- F. Article 8:1.26.B.8.b is hereby amended by replacing the words “Grading and Soil and Erosion” before the word “Control” with the words “Grading permits and Soil Erosion and Sediment”.
- G. Article 8:2.7.F.1 is hereby amended by replacing the word “Ordinance” with the word “Regulations”.
- H. Article 8:1.27.B.12 is hereby amended by replacing the number “10%” with the words “twenty five percent (25%)”.
- I. Article 8:1.27.F.8.a is hereby amended by adding the words “final site stabilization shall be achieved and” between the words “submission,” and “all”.
- J. Article 8:2.7.F.3 is hereby amended by adding the words “and Sediment” after the words “Soil Erosion”.
- K. Article 8:3.5.A.6 is hereby amended by adding the phrase “, grading permits,” after the word “lots”.
- L. Article 8:3.5.B.2.b is hereby amended by deleting the section in its entirety and replacing it with the following:
 - b. Conservation Easement. All sensitive areas that are not contained in a preservation outlot shall be protected through use of a conservation easement. The conservation easement shall be denoted on the

plat and the sensitive areas plat exhibit, and shall be flagged on the site prior to any site disturbance or construction activities.

- i. A conservation easement shall be established to protect sensitive areas and associated buffers, with an easement agreement or other deed restriction attached to the title.
- ii. Buffer-permitted uses, in accordance with section 8:3.5.B.5.a, may be allowed within demarcated buffers that are within the conservation easement as shown on the sensitive areas exhibit recorded with the final plat documents.
- iii. After approval of the plat or development plan, the Zoning Administrator may approve minor amendments to the conservation easement that do not increase the required mitigation area.
- iv. Where a property owner wishes to modify an existing limits of disturbance, such modification may be approved by the Zoning Administrator if the property owner establishes a conservation easement in accordance with this section. Said conservation easement shall cover all identified sensitive areas and sensitive areas buffers identified in the original sensitive areas report or shown on the original sensitive areas plat exhibit.

M. Article 8:3.5.B.3.a is hereby amended by replacing the words “limits of disturbance” with the words “conservation easement boundary”.

N. Article 8:3.5.B.3.b is hereby amended by deleting the section in its entirety and replacing it with the following:

b. Survey of actual impacts.

- i. Projects for which authorized impacts to sensitive areas are within five percent (5%) of a mitigation threshold, a survey of the actual impact boundary and calculated impact area must be submitted by the applicant prior to receiving final plat approval or issuance of Certificate of Occupancy for any building permit on property subject to Site Plan requirements.
- ii. If authorized impacts to sensitive areas are not within five percent (5%) of a mitigation threshold, but the Zoning Administrator has reason to believe that authorized impacts were exceeded, the applicant may be required to submit a survey of the actual impact boundary and calculated impact area prior to receiving final plat approval or issuance of Certificate of Occupancy for any building permit on property subject to Site Plan requirements.
- iii. Where the Zoning Administrator has reason to believe that impacts to sensitive areas authorized through the development approval process have been exceeded after receiving final plat approval or issuance of a Certificate of Occupancy for a building permit on property subject to Site Plan requirements, the property owner may be required to submit a survey of the actual impact boundary and calculated impact area.

O. Article 8:3.5.B.3 is hereby amended by adding subsection 8:3.5.B.3.e, to read as follows:

- e. For applications that include any portion of land included in a previous development application or use permit approved since the effective date of this ordinance, cumulative sensitive areas impacts of all previous and current development applications or use permits shall be considered.

P. Article 8:3.5.E.1.b.iii is hereby amended by replacing the words “consultant from the Association of Iowa Archaeologists (AIA) Consultants List” with the word “professional”.

Q. Article 8:3.5.E.1.b.iii.d is hereby amended by deleting the section in its entirety and replacing it with the following:

- d) Information on identified historic features should be submitted to the State Historic Preservation Office of Iowa.
- R. Article 8:3.5.H.2.a.i is hereby amended by replacing the words “if the applicant can demonstrate that disturbance is necessary to facilitate the installation of required infrastructure” with the words “for general development”; and replacing the words “exceeded for” with the words “allowed if the applicant can demonstrate that disturbance is necessary to facilitate the installation of required infrastructure, or for the”.
- S. Article 8:3.5.I.2.a is hereby amended by deleting the words “around the stream corridor”.
- T. Article 8:3.5.J is hereby amended by adding the words “and delineation” after the word “Determination”; and adding the words “, using the methodology outlined in the U.S. Army Corps of Engineers Wetland Delineation Manual (Environmental Laboratory, 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region (USACE, 2010)” after the words “wetland specialist”.
- U. Article 8:3.5.J.2.b is hereby amended by adding subsection 8:3.5.J.2.b.iii, to read as follows:
- iii. General Impact Provisions. All proposed impacts to wetlands shall be:
 - a) Permitted by the United States Army Corps of Engineers and Iowa Department of Natural Resources, as applicable.
 - b) In compliance with all state and federal regulations.
- V. Article 8:3.6.A.1 is hereby amended by adding subsection 8:3.6.A.1.d, to read as follows:
- d. At the Zoning Administrator’s discretion, stormwater management planning may be deferred to time of Site Planning for properties subject to the Site Planning requirements in Chapter 8:1.25.
- W. Article 8:3.6.A.2.b is hereby amended by adding the words “from a single parcel group” after the words “lots created”; and replacing the word “adoption” with the words “effective date”.
- X. Article 8:3.6.A.2 is hereby amended by adding subsection 8:3.6.A.2.c, to read as follows:
- c. All buildable lots created after the effective date of this ordinance in accordance with subsections 8:1.6.L or 8:1.6.M will not be counted towards residential chain subdivisions. Such lots shall complete stormwater management planning at time of building permit. Stormwater management requirements shall be determined for each lot independently.
- Y. Article 8:3.6.A.5 is hereby amended by adding the words “final site stabilization is achieved, and” after the words “such time that”.
- Z. Article 8:3.6.D.3 is hereby amended by deleting subsection 8:3.6.D.3.c and replacing it with the following:
- c. The agreement shall be recorded by the applicant in the office of the Johnson County Recorder in accordance with the following:
 - i. For projects subject to platting, the agreement shall be recorded with the legal documents for the final plat.
 - ii. For all other projects subject to the requirements of this section, proof of recording shall be submitted to the Zoning Administrator prior to issuance of Certificate of Occupancy, Certificate of Completion, or commencement of the use.
- AA. Article 8:3.6.D.4 is hereby amended by deleting it in its entirety and replacing it with the following:

4. Proof of Permanent Recorded Maintenance Easement. The Maintenance Easement shall ensure access to all stormwater facilities at the site for the purpose of inspection and repair, and remain in effect with transfer of title to the property. The Maintenance Easement shall be recorded by the owner in the office of the Johnson County Recorder in accordance with the following:
 - i. For projects subject to platting, the easement shall be recorded with the legal documents for the final plat.
 - ii. For all other projects subject to the requirements of this section, proof of recording shall be submitted to the Zoning Administrator prior to issuance of Certificate of Occupancy, Certificate of Completion, or commencement of the use.

BB. Article 8:3.6.E.5 is hereby amended by replacing the numeral “25” with the numeral “30” in the third row of the second column of the table.

CC. Article 8:3.7.A.1 is hereby amended by deleting the words “,combined, or final”.

DD. Article 8:3.7.A.3 is hereby amended by adding a new unnumbered paragraph to follow subsection 8:3.7.A.3.c, to read as follows:

A Soil Erosion and Sediment Control permit will be issued in conjunction with the building permit, and will remain in place until the site has reached substantial final stabilization.

EE. Article 8:3.7.A.7 is hereby amended by replacing the word “permit” with the word “plan”.

FF. Article 8:3.7.B.3 is hereby amended by replacing the words “been permanently stabilized” with the words “achieved final stabilization”; and by adding subsection 8:3.7.B.3.a, to read as follows:

- a. Final Stabilization. Final stabilization shall be considered achieved when all soil disturbing activities at the site have been completed and a sufficient uniform perennial vegetative cover has been established on all non-hard surface areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed, such that risk for erosion and sediment discharge is minimal. Short term degradable erosion control practices that are selected, designed, and installed in combination with planting (seeds, cuttings, nursery stock, etc.), sufficient for permanent vegetation to establish within the current growing season without additional active maintenance, may also be used as “final stabilization” at the discretion of the Zoning Administrator.

Section III. Repealer. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Savings Clause. If any section, provision, or part of this ordinance shall be adjudged invalid, illegal, or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged, invalid, illegal or unconstitutional.

Section V. Effective Date. This ordinance shall be in effect after its final passage and publication as part of the proceeding of the Board of Supervisors.

Date of publication:

Chairperson, Board of Supervisors
Johnson County, Iowa

Attest: Travis Weipert, Auditor
Johnson County, Iowa

The follow pages show the changes proposed by the ordinance amendment document above in-line with some surrounding text in the ordinance as it currently exists.

These in-line changes are meant to provide context for reading the proposed change and are meant for illustrative purposes only.

8:1.23 Supplemental Conditions.

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F. Solar Energy Systems, Utility Scale. Utility Scale Solar Energy Systems with a total use area of twenty (20) acres or less are allowed as a primary use in the RE district, and are conditionally permitted in the A district. Utility scale solar energy systems with a total use area of greater than twenty (20) acres are allowed as primary uses in the RE district. All utility scale solar energy systems are subject to the following conditions regardless of use area size:

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12. The application shall comply with all Environmental Standards in Chapter 8.3.

- a. Full stormwater management planning in accordance with section 8:3.6 of this ordinance shall be provided for all connected impervious surfaces, ~~including~~ excluding internal access roads.
 - i. The designation of a surface type as impervious or pervious shall be in accordance with the Iowa Stormwater Management Manual. At the discretion of the approving authority, stormwater management planning may also be required for some or all pervious surfaces.
 - ii. The applicant, owner, or site operator shall provide as-built plans for all required stormwater management infrastructure within thirty (30) days of completion of on-site infrastructure or the start of energy generation from the site, whichever occurs first. As-built plans shall be certified by a Professional Engineer licensed in the State of Iowa.

8:1.25 Site Plan Review.

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B. Installation of Improvements. All improvements shall be installed in accordance with this subsection and the approved site plan.

1. Building Permit Issuance. Building permits may be issued for structures that are shown on an approved site plan.
2. Certificate of Occupancy. The Zoning Administrator shall not issue a permanent certificate of occupancy for any building permit on property subject to these regulations until such time that final site stabilization has been achieved and as-built plans for all required infrastructure are provided.
 - a. As-built plans for all required infrastructure shall be certified by a Professional Engineer licensed in the State of Iowa.
 - b. As-built plans will be required to verify that the following infrastructure has been installed in conformance with the approved site plan:
 - i. Surface type and dimensions of all parking and drive areas.
 - a) Plans do not need to verify the depth of surface materials or subbase for parking and drive areas, only surface type and dimensions.
 - ii. Location and species of all landscaping.
 - iii. Location of all utilities serving the site including well and water lines, wastewater, electric, and gas (where applicable).

- iv. Stormwater infrastructure including but not limited to final location, dimensions, and elevations in accordance with the approved stormwater plan.
- c. At the discretion of the Zoning Administrator, and only when the applicant has demonstrated that it is extraordinarily expensive and/or difficult to install all improvements prior to issuance of the permanent Certificate of Occupancy due to unforeseeable circumstances beyond the applicant's control, a temporary certificate of occupancy may be issued prior to the provision of as-built plans where the applicant enters into a performance guarantee with the County in accordance with the following:
 - i. Performance guarantees may be allowed for any infrastructure or improvements.
 - ii. The performance guarantee shall be in accordance with the standards set in Section 8:1.27(B)(12).

8:1.26 Permit Application Administration and Procedures.

All departments, officials, and public employees of Johnson County that are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall not issue a permit or license for any use, building, or purpose if the same would be in conflict with provisions of this Ordinance. All Building Permits and Certificates of Occupancy shall be revocable, subject to the continued compliance with all requirements and conditions of this and other applicable laws and regulations. Any permit or license issued in conflict with the provisions of this Ordinance shall be null and void.

A. Permit Types and Application of Regulations. The following permit(s) shall be obtained from the Zoning Administrator in writing before starting or proceeding with any of the work described herein:

1. Building Permit. A building permit is required before starting or proceeding with any of the following:
 - a. The construction, alteration, movement, enlargement, replacement, repair, equipment, or location, of any building or structure, or as otherwise required by Chapter 8:6 of this ordinance.
 - i. Permits are also required for fences over six (6) feet in height.
 - b. Excavating for any building or structure.
 - c. The removal or demolition of any building or structure, or part thereof which would require a building permit to construct.
 - i. A permit will be required even if the structure was involuntarily damaged by fire, wind, flood, age, or other cause. The permit will cover removal of any remaining debris and foundation from the site.
 - ii. Separate permits for the demolition or removal of buildings or structures shall not be required when a building permit is issued for construction, alteration, movement, enlargement, replacement, or repair of an existing structure to be removed.
 - d. Changing the use or occupancy of any building or structure from one classification to another.
2. Soil Erosion and Sediment Control Permit. A soil erosion and sediment control permit shall be obtained from the Zoning Administrator in accordance with this section and Chapter 8:3.7.

3. Grading Permit. A grading permit shall be obtained from the Zoning Administrator in accordance with this section.

- a. A grading permit is required prior to the commencement of ground-disturbing activities for linear utility or infrastructure projects, such as pipelines or transmission lines, that are located outside of any public road Right-of-Way and that propose disturbing an area greater than one-half (1/2) acre. For properties where no development application has been approved, an approved grading permit is required before starting or proceeding with any ground-disturbing activities that exceed one-quarter (1/4) acre.
 - i. ~~Where an approved, unexpired development application exists, separate grading permits shall not be required prior to the start of work.~~
- b. A grading permit may be issued prior to approval of a plat or Site Plan to allow for commencement of ground-disturbing activities on sites preparing to establish a use which is in compliance with the zoning district in which the property is located. Grading permits shall only be issued for projects which propose to establish, or prepare a site to establish, a use which is in compliance with the zoning district in which the property is located.
- c. Applications for grading permits shall include a Soil Erosion and Sediment Control plan in accordance with Chapter 8:3.7.
- d. Applications for grading permits shall include a Sensitive Areas Report in accordance with Chapter 8:3.5
- e. Applications for grading permits shall include a site drawing indicating all of the following on a single sheet:
 - i. The location of any sensitive areas on the property.
 - ii. The proposed location of all Soil Erosion and Sediment Control measures to be installed.
 - iii. Proposed accesses to public roads.
 - iv. The limits of disturbance of the grading activity.
 - v. The final proposed contours with elevations.

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B. General Provisions.

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8. Expiration. All permits shall expire if the work permitted is not completed, or the use permitted is not established within the limits set forth below.
- a. Building Permits issued by the Zoning Administrator under these regulations shall expire as outlined in the Chapter 8:6. Thereafter all materials stored on the premises shall be confined to one location with maximum area of one hundred (100) square feet.
 - b. Grading and Soil and Erosion-Grading permits and Soil Erosion and Sediment Control permits issued by the Zoning Administrator under this section shall expire two (2) years after the date of issue.

- c. Administrator-approved use permits issued under this section shall expire six (6) months after the date of issue if the use is not established.
 - i. Once established, uses may also be subject to a separately defined expiration as outlined in Section 8:1.23.
- d. Sign permits issued by the Zoning Administrator under the provisions of these regulations shall expire six (6) months after the date of issue if the sign is not constructed in conformance with the permit.

8:1.27 Development Application Administration and Procedures.

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B. General Provisions.

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12. Performance Guarantees. This subsection shall apply to applications where a developer is required to enter into an agreement in accordance with this ordinance to guarantee the construction of required improvements for a development. Performance guarantees may be referred to as performance agreements.
- a. Performance agreements shall be prepared in accordance with the standards established by the Zoning Administrator, and shall be submitted in the form prescribed by the Administrator. Given the unique nature of development applications, the final requirements of the performance agreement will be dictated by the Zoning Administrator in consultation with the County Attorney's Office on a case-by-case basis.
 - b. Financial Surety. Any performance agreement shall be secured by the filing of a financial surety instrument in the form of a performance bond, escrow account, bank letter of credit, or other equally acceptable financial instrument as determined by the Zoning Administrator. The amount of the financial surety instrument shall be equal to the cost of the improvement plus a twenty five percent (25%)~~10%~~ contingency fee.
 - c. If the improvements are not completed as specified in the performance agreement, the County may use any necessary portion of the financial surety to complete said improvements in accordance with signed agreement.
 - d. The performance guarantee shall not be released until the Zoning Administrator has determined that the improvements have been satisfactorily completed. At the Zoning Administrator's discretion, as-built plans certified by a Professional Engineer licensed in the State of Iowa may be required to release a performance guarantee.

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- F. Subdivision.** Any person intending to subdivide land within the terms of these regulations shall comply with the procedures established in this subsection.

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8. Final Plat Submission. The developer may prepare a final plat for any portion of the approved preliminary plat in accordance with Chapter 8:2 of this ordinance and may make application for final plat approval in accordance with this section.

- a. Prior to final plat submission, final site stabilization shall be achieved and all shared improvements shall be installed at the developer, applicant, or owner's expense, in accordance with the regulations in Chapter 8:2 of this ordinance, and in general conformance with the approved preliminary plat.
- ii. If such improvements are not installed, they shall be guaranteed in accordance with these regulations.

8:2.7 Subdivision Principles.

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F. Environmental Standards. The Board shall not approve any preliminary, combined, or final plat that does not comply with all applicable regulations located in Chapters 8:3 and 8:4.

1. All plats shall comply with the Sensitive Areas Regulations-Ordinance.
2. A Stormwater Management Plan shall be submitted and approved prior to plat approval.
3. A Soil Erosion and Sediment Control Plan shall be submitted and approved prior to plat approval.
4. All plats shall comply with Floodplain Management Regulations in Chapter 8:4.

8:3.5 Sensitive Areas Regulations.

The purpose of this subsection is to ensure that the development of land protects and preserves valuable environmental amenities. The sensitive areas regulations will further the goals of the Johnson County Comprehensive Plan by providing regulatory protections for areas of environmental concern; encouraging development best practices and innovations that demonstrate good land stewardship; manage and conserve areas of unique environmentally, culturally, or historically significant resources; encourage avoidance of sensitive areas in the development design process; and, when avoidance is infeasible, provide a mechanism for compensatory mitigation to offset impacts.

A. Application of Regulations.

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6. Waiver of Requirements. The Zoning Administrator or a duly authorized representative may waive some or all of the requirements of this subsection for subdivision applications with 3 or fewer lots, grading permits, or for the commencement of conditionally permitted uses, if one of the following conditions are met:
 - a. It is clear upon cursory examination that no sensitive areas are present on site.
 - b. A sensitive areas analysis was previously performed on the property and the associated site plan and analysis are also adequate for the current proposed development or use.
 - c. For conditionally permitted uses: the duration, use, size, and impact of the proposed use will not adversely affect any sensitive areas or the preservation goals outlined in the Comprehensive Plan.

B. Sensitive Areas Principles.

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2. Sensitive Areas Protection. All sensitive areas that are not proposed to be impacted shall be protected in accordance with the following:

- a. Preservation Outlot. Sensitive areas are placed in a preservation outlot, with permanent protection through one of the following methods:
 - i. Conservation Easement. Shall be held by an accepted third party land conservation organization.
 - ii. Deed Restriction. A covenant attached to the title that permanently protects the delineated sensitive area.

b. Conservation Easement. All sensitive areas that are not contained in a preservation outlot shall be protected through use of a conservation easement. The conservation easement shall be denoted on the plat and the sensitive areas plat exhibit, and shall be flagged on the site prior to any site disturbance or construction activities.

- i. A conservation easement shall be established to protect sensitive areas and associated buffers, with an easement agreement or other deed restriction attached to the title.
- ii. Buffer-permitted uses, in accordance with section 8:3.5.B.5.a, may be allowed within demarcated buffers that are within the conservation easement as shown on the sensitive areas exhibit recorded with the final plat documents.
- iii. After approval of the plat or development plan, the Zoning Administrator may approve minor amendments to the conservation easement that do not increase the required mitigation area.
- i.iv. Where a property owner wishes to modify an existing limits of disturbance, such modification may be approved by the Zoning Administrator if the property owner establishes a conservation easement in accordance with this section. Said conservation easement shall cover all identified sensitive areas and sensitive areas buffers identified in the original sensitive areas report or shown on the original sensitive areas plat exhibit.

~~b. Established Limits of Disturbance. All sensitive areas that are not contained in a preservation easement shall be protected through use of a limit of disturbance. No area outside the established limits of disturbance may be impacted. The limits of disturbance shall be denoted on the sensitive areas plat exhibit and the sensitive areas report, and shall be flagged on the site prior to any construction activities.~~

- ~~i. After approval of the plat or development plan, the Zoning Administrator may approve minor amendments to the limits of disturbance that do not increase the required mitigation area.~~

3. Impact. Impact to sensitive areas is permitted only in accordance with the provisions of this chapter and an approved development plan or use permit.

a. If applicable, conservation easement boundary ~~limits of disturbance~~ shall be flagged on site prior to beginning any ground disturbance, vegetation removal, or construction activities.

b. Survey of actual impacts. Projects for which authorized impacts to sensitive areas are within five percent (5%) of a mitigation threshold, a survey of the actual impact boundary and calculated impact area must be submitted by the applicant prior to receiving final plat approval or issuance of Certificate of Occupancy for any building permit on property subject to Site Plan requirements.

- i. Projects for which authorized impacts to sensitive areas are within five percent (5%) of a mitigation threshold, a survey of the actual impact boundary and calculated impact area must be

submitted by the applicant prior to receiving final plat approval or issuance of Certificate of Occupancy for any building permit on property subject to Site Plan requirements.

- ii. If authorized impacts to sensitive areas are not within five percent (5%) of a mitigation threshold, but the Zoning Administrator has reason to believe that authorized impacts were exceeded, the applicant may be required to submit a survey of the actual impact boundary and calculated impact area prior to receiving final plat approval or issuance of Certificate of Occupancy for any building permit on property subject to Site Plan requirements.
- iii. Where the Zoning Administrator has reason to believe that impacts to sensitive areas authorized through the development approval process have been exceeded after receiving final plat approval or issuance of a Certificate of Occupancy for a building permit on property subject to Site Plan requirements, the property owner may be required to submit a survey of the actual impact boundary and calculated impact area.

~~b.c.~~ If authorized impacts on any site have been exceeded, a revised sensitive areas exhibit must be completed, reviewed, and recorded showing the actual impacts.

d. If unauthorized impacts on any site have exceeded the mitigation threshold, then the site must be brought into compliance by completing and implementing an approved mitigation plan.

~~e.e.~~ For applications that include any portion of land included in a previous development application or use permit approved since the effective date of this ordinance, cumulative sensitive areas impacts of all previous and current development applications or use permits shall be considered.

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E. Historic Properties. Areas containing significant information regarding the history or prehistory of the United States of America, the State of Iowa, and/or Johnson County. Historic properties include historically significant structures and significant archaeological sites.

1. Identification. The following process shall be utilized to determine if the property contains historic properties:
 - a. Historically Significant Structures. The applicant shall identify all structures that are older than one hundred (100) years.
 - i. If structures exist on site which are one hundred (100) years or older, the applicant shall engage a qualified architectural historian to determine if structures are likely to be historically significant and therefore warrant a more complete survey.
 - ii. If the qualified architectural historian does not recommend an architectural history survey, written notice as such will suffice for completing this requirements.
 - iii. If an architectural history survey is warranted, the applicant shall engage a qualified professional to evaluate and document the historical significance of each structure in accordance with the Iowa Site Inventory Form instructions (available from the Iowa State Historic Preservation Office).
 - b. Significant Archaeological Sites. An archaeological assessment shall be completed for the entire property. Assessments shall be procured in accordance with the following process:

- i. The applicant shall conduct a “Site Search” through the University of Iowa Office of the State Archaeologist (OSA). The OSA report will identify and evaluate known surveys and archaeological resources in the vicinity of the proposed project area and include recommendations for appropriate field survey if warranted.
- ii. If OSA does not recommend archaeological survey, written notice as such from the OSA will suffice for completing this requirement.
- iii. If OSA recommends archaeological survey, the applicant shall engage a qualified professional consultant ~~from the Association of Iowa Archaeologists (AIA) Consultants List~~ to complete the recommended scope-of-work in accordance with the following:
 - a) Surveys shall be completed following the AIA guidelines for archaeological surveys.
 - b) Surveys shall include an analysis of the significance of archaeological sites found on the property. National Register Bulletin #15 and other best practices shall be utilized to assess significance.
 - c) If significant sites are found, the consultant shall provide appropriate research questions to guide mitigation.
 - d) Information on identified historic features should be submitted to the State Historic Preservation Office of Iowa. ~~An electronic report of the survey prepared by the consultant in accordance with AIA survey report guidelines will be provided by the Zoning Administrator to the State Archaeologist for comment who will respond to the Zoning Administrator and the Applicant within 10 business days as to the adequacy of the report, including significance recommendations, following AIA guidelines.~~

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H. Significant Slopes. Landforms that contain slopes that are at high risk to erode, slide, or collapse. This includes protected slopes and critical slopes.

1. Identification. The applicant shall identify all slopes that are twenty five percent (25%) or steeper and classify them based on the following:
 - a. Critical Slopes. Those landforms with a grade between twenty five percent (25%) and thirty five percent (35%).
 - b. Protected Slopes. Those landforms with a grade that exceeds thirty five percent (35%).
2. Implementation. If significant slopes are found on site the proposed use or development shall comply with the following standards:
 - a. Impact. Significant slopes may only be impacted in accordance with the following:
 - i. Critical Slopes. Up to thirty five percent (35%) of the on-site critical slopes may be impacted for general development if the applicant can demonstrate that disturbance is necessary to facilitate the installation of required infrastructure. Impact in excess of thirty five percent (35%) may be allowed if the applicant can demonstrate that disturbance is necessary to facilitate the installation of required infrastructure, or for the ~~exceeded for~~ installation of essential municipal utilities.

- ii. **Protected Slopes.** With the exception of removing the protected slope in its entirety from all buildable lots in a development and for installation of required stormwater management facilities, essential municipal utilities, and accepted stabilization practices, the on-site protected natural slopes shall not be impacted for any purpose.
 - a) Removing the slope shall mean reducing all protected slopes on buildable lots in a development to a slope of less than twenty five percent (25%).
 - b) Where an applicant proposes to remove the entirety of the protected slope on all buildable lots in a development, impact to critical slopes on site may exceed thirty five percent (35%) if necessary to facilitate the removal of the protected slope. Any impact to critical slopes above thirty five percent (35%) shall be the minimum necessary to facilitate the removal of the protected slope.
 - c) Any protected slopes in the development which will not be removed, as well as all required buffers to those slopes, shall be contained entirely in preservation or open space outlots. In these cases, the buffer area must be a slope of less than twenty five percent (25%).
- iii. **Protection.** The applicant shall install stabilization best practices to all impacted significant slopes.
- b. **Buffering.** Protected slopes shall have a buffer zone of two (2) feet for each one (1) of vertical rise of the protected slope, up to a maximum fifty (50) feet.

I. Stream Corridors, Watercourses, and Surface Water Bodies. Areas that store and convey surface water, including but not limited to rivers, streams, drainageways, ponds, and lakes.

- 1. **Identification.** The existence of stream corridors, watercourses, and surface water bodies shall be identified or ruled out in accordance with the following procedures:
 - a. Stream corridors shall be identified using the most current USGS Quadrangle Maps, and delineated in accordance with the following:
 - i. If the stream has delineated floodway on the Official Floodplain Zoning Map, the stream corridor shall be the area of the floodway.
 - ii. If no floodway is delineated, the blue line shall serve as the centerline of a thirty (30) foot wide stream corridor.
 - b. The applicant shall hire a qualified professional to complete a site assessment to determine and delineate all watercourses and surface water bodies on site.
- 2. **Implementation.** If a stream corridor, watercourse, or surface water body are found on site the proposed use or development shall comply with the following:
 - a. **Buffering.** A natural buffer zone shall be established ~~around the stream corridor~~ in accordance with the following:

Stream Corridor, Watercourse, or Surface Water Body	Required Buffer
Cedar River, Iowa River	100 feet
Tributaries of the English, Cedar, or Iowa Rivers, with delineated floodway shown on the Official Floodplain Zoning Map	60 feet

Stream corridors without a delineated floodway, watercourses, and surface water bodies	30 feet
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- i. If other sensitive areas are located within a stream corridor, the largest buffer shall be required.
- ii. Buffer Averaging. At the Zoning Administrator's discretion, stream corridor buffer averaging may be allowed in accordance with buffer averaging standards.

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J. Wetlands. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The diagnostic characteristics of wetlands are vegetation, hydric soils and hydrology. Determination and delineation of wetlands shall be made either by the Corps, NRCS or by a wetland specialist, using the methodology outlined in the U.S. Army Corps of Engineers Wetland Delineation Manual (Environmental Laboratory, 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region (USACE, 2010).

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2. Implementation. If wetland is found on site, the proposed use and development shall comply with the following:

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- b. Impact. Developments shall be designed to avoid and minimize impact to wetland to the greatest extent possible. Unless the applicant can demonstrate that leaving the area undisturbed is unreasonable, the area shall be left undisturbed except for management activities necessary for restoration and maintenance. Impact to wetland is only allowed in accordance with the following:
 - i. Class 1 Wetlands. Shall not be impacted for any purpose.
 - ii. Class 2 and Class 3 Wetlands. Impact shall only be allowed when the impacts are strictly for critical or required infrastructure. The applicant shall demonstrate that avoiding and minimizing the impact to a wetland is unreasonable and that siting said infrastructure in other locations is infeasible. At the discretion of the Zoning Administrator, impacts may also be allowed for construction of reasonable elements of utility scale solar energy systems located in the RE-Renewable Energy district.
 - iii. General Impact Provisions. All proposed impacts to wetlands shall be:
 - a) Permitted by the United States Army Corps of Engineers and Iowa Department of Natural Resources, as applicable.
 - b) In compliance with all state and federal regulations.

8:3.6 Stormwater Management Regulations

The intent of the Stormwater Management Regulations is to protect water resources and minimize the impacts from land use change and development. Stormwater management helps minimize erosion, reduce flooding, protect channels and in-stream habitats, and protect and improve water quality by reducing and slowing surface water flow by providing on-site stormwater management.

A. Application of Regulations.

1. The Board shall not approve any preliminary, combined, or final plat for any commercial or industrial subdivision; a residential subdivision with two (2) or more buildable lots; or a request to change the zoning designation of a property to RE-Renewable Energy, unless it includes a stormwater management plan that is adequate to serve the proposed development.
 - a. All stormwater facilities shall be installed in accordance with the approved preliminary plat, prior to approval of the final plat.
 - i. At the judgement of the Zoning Administrator, a performance guarantee, in accordance with subsection 8:2.5(G)(2) and 8:1.27(B)(12), may be accepted if it is not practicable or advisable to install all stormwater facilities prior to final plat submission.
 - b. At the Zoning Administrator's discretion, stormwater management planning may be deferred to time of building permit application for lots in a residential subdivision which were developed prior to the effective date of this ordinance.
 - c. At the Zoning Administrator's discretion, stormwater management planning may be deferred to time of building permit application for properties subject to the Site Planning requirements in chapter 8:1.25 or on sites where stormwater management is required in association with an approved Conditional Use Permit, if a stormwater runoff analysis, in accordance with the Iowa Stormwater Management Manual, clearly demonstrates that post-developed runoff rates will be decreased or remain unchanged relative to pre-developed runoff rates.
 - ~~e.d.~~ At the Zoning Administrator's discretion, stormwater management planning may be deferred to time of Site Planning for properties subject to the Site Planning requirements in Chapter 8:1.25.
2. Residential subdivisions, which propose no more than one (1) additional buildable lot since the effective date of this ordinance, shall complete stormwater management planning prior to approval of any building permits on the proposed buildable lot.
 - a. Residential subdivisions which propose no more than one (1) additional buildable lot since the effective date of this ordinance, and which do not exceed five thousand (5000) square feet of new impervious rooftop, as of the adoption date of this ordinance, shall submit a Stormwater Quality Improvement Plan in compliance with subsection 8:3.6~~(E)~~€.
 - b. All buildable lots created from a single parcel group after the effective date adoption of this ordinance in residential chain subdivisions, shall be included to determine stormwater management requirements.
 - ~~b.c.~~ All buildable lots created after the effective date of this ordinance in accordance with subsections 8:1.6.L or 8:1.6.M will not be counted towards residential chain subdivisions. Such lots shall complete stormwater management planning at time of building permit. Stormwater management requirements shall be determined for each lot independently.
3. The Board or Zoning Administrator shall not approve any site plan unless it includes a stormwater management plan that is adequate to serve the proposed development.
 - a. For expansion of sites developed prior to the effective date of this ordinance, stormwater management planning will only be required to address the areas which will be impacted by development associated with the proposed expansion.

4. No conditional use, for which compliance with stormwater management is required either as a condition of approval or as required in accordance with subsection 8:1.23, shall commence until such time that an approved stormwater management plan has been submitted, approved, and implemented, unless an associated performance agreement has been entered into with the Zoning Administrator.
5. The Zoning Administrator shall not issue a permanent certificate of occupancy for any building permit on property subject to these regulations until such time that final site stabilization is achieved, and as-built plans for all required stormwater management infrastructure are provided. As-built plans shall be certified by a Professional Engineer licensed in the State of Iowa.
 - a. As-built plans shall not be required for sites that are only required to complete a Stormwater Quality Improvement Plan in accordance with subsection 8:3.6.E.

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D. Maintenance and Repair of Stormwater Facilities.

1. Maintenance and Repair Required. The developer or landowner(s) of sites subject to the provisions of this chapter, including but not limited to lot owners and owners of any common open space, shall be responsible for maintaining as-built stormwater facilities in a manner consistent with the approved stormwater management plan.
 - a. Any necessary maintenance or repair shall be completed by the owner in a timely manner, as determined by the County.
2. Maintenance and Repair Plan. A Maintenance and Repair Plan for all stormwater facilities including detailed maintenance and repair procedures to ensure their continued efficient function, shall be required for approval of the Stormwater Management Plan.
 - a. The plan shall identify the parts or components of the stormwater facilities that shall be maintained, the appropriate maintenance procedures, and the frequency of inspection.
3. Maintenance and Repair Agreement. Maintenance of, and repairs to, a stormwater facility shall be ensured through the granting of a formal Maintenance and Repair Agreement in a form acceptable to the County.
 - a. The agreement shall be binding on all subsequent parties, heirs, and assigns of all land served by the stormwater facilities.
 - b. The agreement shall provide for assessment against all owners of property in the development should the stormwater BMP not be maintained.
 - c. The agreement shall be recorded by the applicant in the office of the Johnson County Recorder in accordance with the following: ~~The agreement shall be recorded by the owner in the office of the Johnson County Recorder and proof of recording shall be submitted to the Zoning Administrator prior to approval of a final plat, building permit, or commencement of a conditional use.~~
 - v. For projects subject to platting, the agreement shall be recorded with the legal documents for the final plat.
 - vi. For all other projects subject to the requirements of this section, proof of recording shall be submitted to the Zoning Administrator prior to issuance of Certificate of Occupancy, Certificate of Completion, or commencement of the use.

4. Proof of Permanent Recorded Maintenance Easement. The Maintenance Easement shall ensure access to all stormwater facilities at the site for the purpose of inspection and repair, and remain in effect with transfer of title to the property. The Maintenance Easement shall be recorded by the owner in the office of the Johnson County Recorder in accordance with the following: ~~Proof of Permanent Recorded Maintenance Easement. Proof of permanent recorded Maintenance Easement that will ensure access to all stormwater facilities at the site for the purpose of inspection and repair and will remain in effect with transfer of title to the property, shall be submitted to the Zoning Administrator prior to approval of a final plat, building permit, or commencement of a conditional use.~~
- a. For projects subject to platting, the easement shall be recorded with the legal documents for the final plat.
- ~~a.b.~~ For all other projects subject to the requirements of this section, proof of recording shall be submitted to the Zoning Administrator prior to issuance of Certificate of Occupancy, Certificate of Completion, or commencement of the use.

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E. Stormwater Quality Improvement Plan.

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5. Plans shall achieve a minimum of thirty (30) points based on the following table:

Tool	Points
Any combination of engineered practices (e.g. biocells) and SQR that treats one hundred percent (100%) of the water quality volume (WQv) for the impervious areas.* †	30
One hundred percent (100%) preservation of sensitive woodland and a 50 foot buffer, on a buildable lot that is equal to or greater than 50% sensitive woodland.	25
SQR completed on all areas impacted or disturbed during construction. Construction limits must be established and will be coincident with the SQR limits.*	~~30~~ 25
One hundred percent (100%) preservation of slopes fifteen percent (15%) or greater with a fifty (50) foot buffer provided between these slopes and all impervious areas. The protected slopes must be down gradient from the on-site development.	20
Any combination of engineered practices (e.g. biocells) and SQR that treats the water quality volume (WQv) for at least fifty percent (50%) of the impervious area of the site. * †	15
Planting of large-growth native trees within any newly planted lawn or landscaped developed area. This credit is only available when no trees have been removed. • 5 points for planting one (1) or two (2) trees. • 5 additional points for planting three (3) or four (4) trees. • 5 additional points for planting five (5) or more trees.	Up to 15
Use of native vegetation downslope of concentrated discharge (e.g. downspouts) and/or in flow paths to slow and infiltrate runoff. • Provisions need to be included for ensuring successful growth in concentrated flow paths (e.g. plugs, erosion control matting, etc.). • Any native species noted in the Tallgrass Restoration Handbook by Packard and Mutel can be included in species selection.	10

The planted area must be at least 10% of the total impervious area of the dwelling, with length of the planting area equal to at least two (2) times the width of the planting area.	
Establishment of a 100-foot separation between impervious areas and any down-gradient slopes that are 6% or greater.	10
Pop-up drain emitters to dissipate discharge from downspouts.	5
Innovative and/or alternative practices. - At the discretion of the Zoning Administrator, a cap may be placed on the total points assigned for multiple innovative or alternative practices. - Applicant must demonstrate the ability of the proposed practice to slow and infiltrate runoff.	5

* Soil quality restoration (SQR) cannot be used to claim points for more than one category.

† Proposed practices must account for the entire area draining to the practice.

8:3.7 Soil Erosion and Sediment Control.

The purpose of the Soil Erosion and Sediment Control Regulations is to protect and maintain environmental health and the quality of receiving waters into which stormwater flows, as well as the health, safety, and general welfare of the public by limiting and controlling discharges of pollutants from development and construction sites.

A. Application of Regulations.

- The Board shall not approve any preliminary, ~~combined, or final~~ plat unless it includes a soil erosion and sediment control plan that is adequate to serve the proposed development.
- The Board or Zoning Administrator shall not approve any site plan unless it includes a soil erosion and sediment control plan that is adequate to serve the proposed development.
- The Zoning Administrator shall not issue a building permit which meets one or more of the following, unless it includes a soil erosion and sediment control plan that is adequate to serve the proposed development:
 - A new dwelling.
 - Dwelling addition with a footprint of one thousand (1,000) square feet of greater.
 - The proposed total ground disturbance is greater than one quarter (1/4) acre.

A Soil Erosion and Sediment Control permit will be issued in conjunction with the building permit and will remain in place until the site has reached final stabilization.

- The Zoning Administrator shall not issue a grading permit unless it includes a soil erosion and sediment control plan that is adequate to serve the proposed grading project.
- The Zoning Administrator shall not issue a demolition permit unless it includes a soil erosion and sediment control plan that is adequate to serve the proposed demolition project.
- No conditional use, for which compliance with soil erosion and sediment control is required either as a condition of approval or as required in accordance with subsection 8:1.23, shall commence until such

time that an approved soil erosion and sediment control plan has been submitted, approved, and implemented.

7. If a project does not require a ~~plan permit~~ as outlined in this section and there is discharge to watercourses or water bodies occurring from the site, erosion and sediment control measures must be provided in accordance with subsection 8:3.7.B.1.

B. Soil Erosion and Sediment Control Standards. In all cases where a soil erosion and sediment control plan is required, the plan shall be developed in accordance with the Iowa Statewide Urban Design and Specifications (SUDAS) and the following:

1. Effective erosion and sediment controls, temporary and permanent stabilization, pollution prevention, and/or best management practices must be designed, installed, and maintained onsite, in accordance with Iowa Statewide Urban Design and Specifications (SUDAS) standard design criteria as amended, to minimize the discharge of pollutants.
2. Existing topsoil must be preserved and reapplied on site in a uniform uncompacted manner.
3. All temporary erosion and sediment controls shall be maintained until the County has determined that the site has ~~achieved final stabilization~~ ~~been permanently stabilized~~.
 - a. Final Stabilization. Final stabilization shall be considered achieved when all soil disturbing activities at the site have been completed and a sufficient uniform perennial vegetative cover has been established on all non-hard surface areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed, such that risk for erosion and sediment discharge is minimal. Short term degradable erosion control practices that are selected, designed, and installed in combination with planting (seeds, cuttings, nursery stock, etc.), sufficient for permanent vegetation to establish within the current growing season without additional active maintenance, may also be used as “final stabilization” at the discretion of the Zoning Administrator.
4. In addition to local permitting, the applicant must comply with all other applicable State or Federal permit requirements in existence at the time of application.