

ORDINANCE NO. 08-03-23-02

**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 "which measure five thousand (5000) square feet or greater, 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.F.8.a is hereby amended by adding the words "final site stabilization shall be achieved and" between the words "submission," and "all".
- I. Article 8:2.7.F.3 is hereby amended by adding the words "and Sediment" after the words "Soil Erosion".

- J. Article 8:3.5.A.6 is hereby amended by adding the phrase “, grading permits,” after the word “lots”.
- K. 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.
- L. Article 8:3.5.B.3.a is hereby amended by replacing the words “limits of disturbance” with the words “the conservation easement boundary”.
- M. 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.

N. 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.

O. 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”.

P. 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.

Q. 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”.

R. Article 8:3.5.I.2.a is hereby amended by deleting the words “around the stream corridor”.

S. 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”.

T. 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.

U. 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.

V. 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”.

W. 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.

- X. 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”.
- Y. 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.
- Z. 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:
 - a. For projects subject to platting, the easement shall be recorded with the legal documents for the final plat.
 - 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.
- AA. 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.
- BB. Article 8:3.7.A.1 is hereby amended by deleting the words “,combined, or final”.
- CC. 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.
- DD. Article 8:3.7.A.7 is hereby amended by replacing the word “permit” with the word “plan”.
- EE. 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: August 17, 2023

Rod Sullivan
~~Lisa Green-Douglass~~, Chairperson
Board of Supervisors
8/3/23
Date

ATTEST:
Travis Weipert by
Erin Shore, Deputy Auditor
Travis Weipert, Auditor
Johnson County, Iowa