

CHAPTER 1011

CONSTRUCTION SITE REGULATION BY COUNTIES AND CITIES — TOPSOIL AND STORM WATER

S.F. 455

AN ACT relating to the regulation of topsoil and storm water at construction sites.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. [Section 331.301](#), Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 23. *a.* For purposes of [this subsection](#):

(1) “*Construction site*” means the same as used in a storm water general permit adopted by rule pursuant to [section 455B.103A](#).

(2) “*Topsoil*” means the same as used in a storm water general permit adopted by rule pursuant to [section 455B.103A](#).

b. A county shall not adopt or enforce an ordinance, motion, resolution, or amendment relating to the preservation, compaction, placement, or depth of topsoil at a construction site that is more restrictive than those requirements provided in the national pollutant discharge elimination system general permit no. 2 as issued by the department of natural resources. A county may develop standards to evaluate topsoil quantities before and after construction and ensure compliance with general permit no. 2. A county may request that the department of natural resources review the soil of a construction site to verify that the national pollutant discharge elimination system general permit no. 2 as issued by the department of natural resources is proper for the construction site.

c. (1) A county may adopt or enforce an ordinance, motion, resolution, or amendment that regulates storm water runoff at a construction site only to the extent that such regulation for rainfall events having a return frequency ranging from five through one hundred years does not require a post-construction storm water flow rate that is more restrictive than the existing flow rate of a rainfall event having a return frequency of five years, with all such runoff rates based on the actual existing condition of the site at the time the construction commences.

(2) A county may adopt or enforce an ordinance, motion, resolution, or amendment that regulates storm water runoff from upstream properties adjacent to a construction site to the extent that storm water runoff shall be allowed to pass through downstream storm water basins at the same flow rates as off-site storm water runoff entering the construction site.

(3) A county may impose a storm water runoff requirement that is more restrictive than what is allowed or required by this paragraph at the construction site if the county meets all of the following conditions:

(a) The county pays for all study, design, and engineering costs for implementing the more restrictive storm water runoff requirement that includes an analysis by a licensed professional engineer of the difference in costs between the requirements of this paragraph and the more restrictive county storm water runoff requirement.

(b) The county pays for the difference of costs between the requirements of this paragraph and the more restrictive requirement imposed by the county for installation of equipment or practices required for a property owner to comply with the storm water runoff requirement.

(c) If the storm water runoff requirement results in the county using a person’s private property, whether by easement or otherwise taking an interest in the property, the county pays the property owner the fair market value of the property taken for any additional land required beyond the requirements of this paragraph.

(d) A county shall not impose a special assessment or otherwise recover the costs from the property owner for the portion of the costs attributable to the county.

(e) The costs attributable to the county shall only apply to the storm water management practices addressed in this paragraph.

Sec. 2. [Section 364.3](#), Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 18. *a.* For purposes of [this subsection](#):

(1) “*Construction site*” means the same as used in a storm water general permit adopted by rule pursuant to [section 455B.103A](#).

(2) “*Topsoil*” means the same as used in a storm water general permit adopted by rule pursuant to [section 455B.103A](#).

b. A city shall not adopt or enforce an ordinance, motion, resolution, or amendment relating to the preservation, compaction, placement, or depth of topsoil at a construction site that is more restrictive than those requirements provided in the national pollutant discharge elimination system general permit no. 2 as issued by the department of natural resources. A city may develop standards to evaluate topsoil quantities before and after construction and ensure compliance with general permit no. 2. A city may request that the department of natural resources review the soil of a construction site to verify that the national pollutant discharge elimination system general permit no. 2 as issued by the department of natural resources is proper for the construction site.

c. (1) A city may adopt or enforce an ordinance, motion, resolution, or amendment that regulates storm water runoff at a construction site only to the extent that such regulation for rainfall events having a return frequency ranging from five through one hundred years does not require a post-construction storm water flow rate that is more restrictive than the existing flow rate of a rainfall event having a return frequency of five years, with all such runoff rates based on the actual existing condition of the site at the time the construction commences.

(2) A city may adopt or enforce an ordinance, motion, resolution, or amendment that regulates storm water runoff from upstream properties adjacent to a construction site only to the extent that storm water runoff shall be allowed to pass through downstream storm water basins at the same flow rate as off-site storm water runoff entering the construction site.

(3) A city may impose a storm water runoff requirement that is more restrictive than what is allowed or required by this paragraph at the construction site if the city meets all of the following conditions:

(a) The city pays for all study, design, and engineering costs for implementing the storm water runoff requirement that includes an analysis by a licensed professional engineer of the difference in costs between the requirements of this paragraph and the more restrictive city storm water runoff requirement.

(b) The city pays for the difference of costs between the requirements of this paragraph and the more restrictive requirement imposed by the city for installation of equipment or practices required for a property owner to comply with the storm water runoff requirement.

(c) If the storm water runoff requirement results in the city using a person’s private property, whether by easement or otherwise taking an interest in the property, the city pays the property owner the fair market value of the property taken for any additional land required beyond the requirements of this paragraph.

(d) A city shall not impose a special assessment or otherwise recover the costs from the property owner for the portion of the costs attributable to the city.

(e) The costs attributable to the city shall only apply to the storm water management practices addressed in this paragraph.

Approved April 10, 2024