ORDINANCE NO. _2016:01___
AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EAGLE GROVE, IOWA BY AMENDING SECTION 97.02 PERTAINING TO WATER DISCHARGE COMPLIANCE

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF EAGLE GROVE, IOWA:

SECTION 1. SECTION MODIFIED. Section 97.02 of the Code of Ordinances of the City of Eagle Grove, Iowa, is amended by substituting in its place the following numbered paragraph to-wit:

97.02 COMPLIANCE REGARDING WATER DISCHARGE. For several years the drainage systems of many tracts of real property within the City have caused storm water and other water to be discharged into the public sanitary sewers. That often causes the sanitary sewer disposal system to become overloaded. The resulting problems include the flooding of residential basements during heavy rainfall, the occasional necessity of permitting sanitary sewage to be discharged into local streams, and the additional wear and tear that are placed on the City wastewater treatment plant.

1. Mandatory Compliance – "Sump Pump" Inspections. The City or its designated contractor will inspect and test each tract of real property in the City and determine whether it complies with the sump pump, downspout, and surface drainage provisions in this chapter. Mobile homes are exempt from this requirement. An initial inspection will be performed to determine compliance. If a tract of real property complies, the owner will be provided with a verified permit that shows compliance. If the real property fails to comply, the owner shall place the real property into compliance. The City shall re-inspect or retest the discharge of water after the City is notified that compliance has been achieved. All properties must become compliant within 120 days after the date of the initial inspection. Note: The "sump pump" inspections noted above are required of every property.

    A. The cost and procedures of inspecting and testing shall be established by a resolution of the Council from time to time. Payment shall be made to the City or its designated contractor after the inspection and test.

    B. Failure on the part of an owner, tenant, or other person in possession of a tract of real property to allow the City or its designated contractor to inspect and test for compliance will be considered noncompliance.

    C. Failure to comply with Sections 97.01 and 97.02 of this chapter by the deadlines specified for each category shall result in an increase in the monthly utility bill for that real property. Such increase shall continue until compliance is achieved. The amount of the increase shall be established by a resolution of the Council from time to time.

    D. Failure to comply with Sections 97.01 and 97.02 may also be considered a simple misdemeanor or a municipal infraction on the part of the owner of the real property.

E. The City may also consider taking legal action against a property owner who has failed to comply with Sections 97.01 and 97.02, when such failure causes the City to incur expenses or damages resulting from water that is discharged into the sanitary sewer.

F. If, at any time, the City has reason to believe that a property is not in compliance with Sections 97.01 and 97.02, the owner shall allow a City employee or designated contractor to inspect the real property, after providing the owner with reasonable notice.

2. Notices.

A. Sections 97.01 and 97.02 shall immediately be placed in a verified notice to be signed by the City Administrator and filed with the Wright County Recorder, so that the same shall appear in all real property abstracts of title.

B. Any notices given to owners of real property in regard to Sections 97.01 and 97.02 shall be made in writing and may be delivered in person, posted on the front door, or by ordinary mail to the owner's last known address.

3. Sale of Real Property. Prior to the sale of any real property (excluding lots without a building), the seller shall require the City or its designated contractor to inspect and test the real property and determine whether it complies with Section 97.01 of this chapter, unless a property has already passed this inspection and a verified permit has been issued as set forth below, in which case no further inspection shall be required for the sale or transfer of real property. This requirement shall become effective on January 1, 2009. If the real property does comply, the City or designated contractor shall provide the seller with a verified permit that shows compliance. The cost of inspecting and testing shall be borne by the seller, unless the buyer agrees to pay the cost. The cost will be paid directly to the inspection agency. If the real property does not comply, it shall be placed into compliance prior to the closing of the sale of the real property, and the City or designated contractor shall re-inspect or retest the discharge of water at that time. The costs associated with any corrections required to consider a property compliant will be paid by the seller, unless the buyer agrees to pay the cost, but shall not be the responsibility of the City. Once the property is found to be in compliance under this section, the City will issue the certificate of compliance to be recorded with the County Recorder. Failure to comply with Sections 97.01 and 97.02 shall be dealt with as explained in paragraphs B, C, D, E, and F of subsection 1, above, except that the increase in the monthly utility bill for that real property shall begin on the first day of the month after the closing of the sale. In the event that a property is not in compliance with Sections 97.01 and 97.02, but if weather or availability of contractor does not permit the improvements to be made prior to the scheduled real estate closing, the following requirements shall be complied with before a certificate will be issued:

A. The City receives a copy of the failed inspection checklist (signed and dated) noting the items of non-compliance.

B. The Seller shall submit to the City a formal, written proposal from the contractor hired to complete the work to bring the property into compliance. This proposal will include a time frame in which the work will be completed but shall not be longer than six months from the date of the noncompliance notice.

C. The seller and buyer agree to hold 125% of the amount of money set forth in the written proposal in escrow until the work is completed. With proof from the closing agent that sufficient funds have been escrowed, the transaction can close and a certificate of compliance will be issued.

D. The City receives a copy of a signed agreement between the contractor and the party taking responsibility for paying for the corrective work.

E. The City receives a written explanation of the work to be performed that will easily identify the proposed work to be done in order to bring the property into compliance.

The City or designated contractor shall re-inspect or retest the discharge of water at its earliest convenience after the work is completed. The cost for this re-inspection shall be borne by the seller, unless the buyer agrees to pay the cost. If the property is found to be noncompliant after such a date, the new property owner will be subject to the penalty provisions in this chapter.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid 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 or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the City of Eagle Grove Council on the 22nd day of February, 2016.

Sandra McGrath
Mayor

Attest:

Mb Boyd
City Clerk

First Reading: 2.8.2016

Second Reading: 2.22.2016

Third Reading: waived (2.22.2016)

I certify that the foregoing was published as Ordinance #2016-01 on the 21st day of April, 2016.

Mb Boyd
City Clerk