

CHAPTER 13.30. STORMWATER MANAGEMENT

Sec. 13.30.010. General Provisions.

- A. **PURPOSE:** The purpose and objective of this chapter are as follows:
1. To maintain and improve the quality of surface water and groundwater within the city;
 2. To prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the storm sewer system and natural waterways within the city;
 3. To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers of the city;
 4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products;
 5. To facilitate compliance with state and federal standards and permits by owners of industrial and construction sites within the city;
 6. To enable the city to comply with all federal and state laws and regulations applicable to its NPDES permit for stormwater discharges.
- B. **ADMINISTRATION:** Except as otherwise provided herein, the City Engineer, City Building Inspector, or the Director of Public Works, or his or her designee, shall administer, implement and enforce the provisions of this chapter. This position will be referenced throughout this ordinance as City Officer.
- C. **DEFINITIONS:** Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.
1. *Best Management Practices (BMP)* means schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States or the City's storm sewer system. The BMP's required in this chapter will be sufficient to prevent or reduce the likelihood of pollutants entering storm sewers, ditches, or ponds.
 2. *Discharge* means any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the storm sewer system or into waters of the United States.
 3. *Discharger* means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.
 4. *Facility* means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.
 5. *Final stabilization* means the status when all soil-disturbing activities at a site have been completed. This would establish a uniform perennial vegetative cover with a density of seventy percent coverage for unpaved areas and those not covered by permanent structures or equivalent permanent stabilization measures (by employing riprap, gabions, or geotextiles).

6. *Fire Protection Water* means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.
7. *Industry* means and includes: (a) municipal landfills; (b) hazardous waste treatment, disposal, and recovery facilities; (c) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, U.S.C. Section 11023; industrial facilities required to obtain NPDES stormwater discharge permits due to their Standard Industrial Classification or narrative description; and (d) industrial facilities that the City Officer determines are contributing a substantial pollutant loading to the storm sewer system, which are sources of stormwater discharges associated with industrial activity.
8. *Kansas General Permit for Storm water Discharges Associated with Industrial Activity* and *Industrial General Permit* mean the industrial general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.
9. *Kansas General Permit for Storm water Discharges from Construction Sites* and *Construction General Permit* mean the construction general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.
10. *Storm Sewer System* means the system of conveyances, (including roads with drainage systems, municipal streets, catch basins, curb and gutters, ditches, man-made channels, natural waterways within the city or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater.
11. *NPDES Permit* means for the purpose of this chapter, this is a permit issued by EPA or the state of Kansas that authorizes the discharge of stormwater pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
12. *Nonpoint Source* means the source of any discharge of a pollutant that is not a point source.
13. *Notice of Intent (NOI)* means the notice of intent that is required by either the Industrial General Permit or the Construction General Permit.
14. *Notice of Termination (NOT)* means the notice of termination that is required by either the Industrial General Permit or the Construction General Permit.
15. *Notice of Violation (NOV)* means a written notice provided to the owner or contractor detailing any violations of this chapter and any clean-up action expected of the violators.
16. *Owner* means the person who owns a facility, part of a facility, or land.
17. *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.
18. *Point Source* means any discernable, confined, and discrete conveyance including, but not limited to: any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture

or agricultural stormwater runoff.

19. *Pollutant* means dredged spoil, spoil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard waste, hazardous household wastes, used motor oil, anti-freeze, litter, and industrial, municipal, and agricultural waste discharged into water.
20. *Pollution* means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
21. *Release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the storm sewer system or the waters of the United States.
22. *Site* means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
23. *Storm water* means storm runoff, snowmelt runoff, and surface runoff and drainage.
24. *Storm water Discharge Associated with Industrial Activity* means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is listed as one of the categories of facilities in 40 CFR Section 122.26(b) (14), and which is not excluded from EPA's definition of the same term.
25. *Storm water Pollution Prevention Plan (SWPPP)* means a plan required by an Industrial General Permit or the Construction General Permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or industrial activity.
26. *Waters of the United States* means any waters within the federal definition of "waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.
27. *Commencement of Construction* means the disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
28. *Contractor* means any person or firm performing construction work at a construction site, including any general contractor and subcontractors. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical, landscaping contractors, and material suppliers delivering materials to the site.
29. *Earthwork* means the disturbance of soils on a site associated with clearing, grading, or excavation activities
30. *Individual Building Sites* means and includes sites of building construction or earthwork activities.
31. *Subdivision* means the division of a tract of land, into two or more lots or parcels for the purpose of transfer of ownership or building development or, if a new street is involved, and division of a parcel of land. The term "subdivision" shall include any further subdivision of a lot or parcel of land previously subdivided for sale, use or other purposes.

Sec. 13.30.020. General Prohibitions.

- A. No person shall introduce or cause to be introduced into the storm sewer system any discharge that is not composed entirely of stormwater, except as allowed in subsection B.
- B. The following non-stormwater discharges are deemed acceptable and not a violation of this section:
 - 1. A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the storm water system);
 - 2. A discharge or flow resulting from emergency fire fighting;
 - 3. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials;
 - 4. A discharge from water line flushing;
 - 5. A discharge or flow from lawn watering, landscape irrigation, or other irrigation water;
 - 6. A discharge or flow from a diverted stream flow or natural spring;
 - 7. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
 - 8. Uncontaminated groundwater infiltration;
 - 9. A discharge or flow from individual residential car washing;
 - 10. Uncontaminated discharges or flow from a foundation drain, crawl space pump, footing drain, or sump pump;
 - 11. Drainage from a private swimming pool containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited;
 - 12. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
 - 13. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
 - 14. A discharge or flow from a riparian habitat or wetland or natural spring;
 - 15. A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
 - 16. A discharge that is a result of an emergency condition to mitigate damage to life or Property;
 - 17. Non-Point agricultural discharges, excluding discharges from confined animal feeding operations.
 - 18. Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
 - 19. Heat pump discharge waters (residential only).
- C. Notwithstanding the provisions of subsection B of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the City Officer to be a source of pollutants to the waters of the United States, or to the storm sewer system, written notice of such determination has been provided to the discharge, and the discharge has occurred more than ten days beyond such notice.

Sec. 13.30.030. Specific Prohibitions and Requirements.

- A. The specific prohibitions and requirements in this section are not necessarily inclusive of all the discharges prohibited by the general prohibition in 13.30.020.
- B. No person shall introduce or cause to be introduced into the storm sewer system any discharge that causes or contributes to causing the city to violate a KDHE water quality standard, the City's NPDES stormwater permit, or any state-issued discharge permit for discharges from its facility.
- C. No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced the following substances into the storm sewer system:
 - 1. Any used motor oil, antifreeze or any other petroleum product or waste;
 - 2. A harmful quantity of industrial waste;
 - 3. Any hazardous waste, including household hazardous waste
 - 4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 - 5. Any garbage, rubbish, or yard waste;
 - 6. Wastewater that contains a harmful quantity of soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment, by a business or public entity that operates more than five such vehicles;
 - 7. Wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
 - 8. Wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any harmful quantity of soap, detergent, degreaser, solvent, or any surfactant based cleaner;
 - 9. Any wastewater from commercial floor, rug, or carpet cleaning;
 - 10. Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
 - 11. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blowdown from a boiler;
 - 12. Any ready-mixed concrete, mortar, ceramic, asphalt base material or hydro mulch material, or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
 - 13. Any runoff, wash down water or waste from any animal pen, kennel, fowl or livestock containment area;
 - 14. Water from commercial swimming pools, filter backwash from any swimming pool or fountain water;
 - 15. Any water from a water curtain in a spray room used for painting vehicles or equipment;
 - 16. Any contaminated runoff from a vehicle wrecking yard;

17. Any substance or material that will damage, block, or clog the storm sewer system; or
- D. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state. No person shall introduce or cause to be introduced into the storm sewer system any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.
- E. Regulations of Pesticides and Fertilizers.
1. No person shall use or cause to be used any pesticide or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide or fertilizer to enter the storm sewer system or waters of the United States.
 2. No person shall dispose of, discard, store, or transport a pesticide or fertilizer, or its container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide or fertilizer to enter the storm sewer system or waters of the United States.
- G. Used Oil. No person shall discharge used oil into the storm sewer system or a sewer, drainage system, septic tank, surface water, groundwater, or watercourse.
- H. Cleanup. Should it be determined by the City Officer that any person or business has allowed any pollutant into the storm sewer system or waters of the United States, immediate measures will be taken by the responsible party to remove the pollutants. If the pollutants are not removed within the time period specified by the City Officer, the City may remove the pollutants and assess the cost thereof to the responsible party. The City may use any legal means to collect said cost, should the responsible party fail to pay said cost within forty- five days.

Sec. 13.30.040. Release Reporting and Cleanup.

- A . Any person responsible for any release of any hazardous material that may flow, leach, enter, or otherwise be introduced into the storm sewer system or waters of the United States shall comply with all state, federal, and any other local law requiring reporting, clean-up, containment, and any other appropriate remedial action in response to the release.
- B. Following such release, the Fire Chief shall submit a written report detailing spill information and the methods used to remedy the problem.

Sec. 13.30.050. Adoption of Erosion Control and Sediment Guidelines and Specifications.

- A. The standard guidelines and specifications for erosion and sediment control on construction site activities, as contained in the *CONSTRUCTION SITE STORM WATER BEST MANAGEMENT PRACTICES MANUAL 2009, CITY OF GREAT BEND*, prepared by the city are adopted by reference.

Sec. 13.30.060. Stormwater Discharges from Construction Activities.

A. General Requirements

1. The owners of construction sites shall ensure that best management practices are used to control and reduce the discharge of pollutants into the storm sewer system and waters of the United States to the maximum extent possible under the circumstances.
2. Qualified personnel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of a storm that is one-half (1/2") inch or greater. All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the storm sewer system. Based on the results of the inspection, the best management practices shall be revised as appropriate as soon as practicable. These inspections, along with a description of revisions, will be documented in writing and available for inspection by the City Officer upon request.
3. Should it be found that soil or pollutants have already or may be carried into the storm sewer system or waters of the United States, immediate measures will be taken by the owner to remedy the violation and/or remove the pollutants. If the owner fails to remove pollutants within the time period prescribed in the notice of violation from the City, the City may remove the pollutants and assess the cost thereof to the responsible owner. Failure of the owner to pay said costs will be grounds for the denial of further approvals or the withholding of occupancy certificates.
4. When determined to be necessary for the effective implementation of this section, the City Officer may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by subsection A.1 of this section above that will be implemented at the construction site. Should the proper BMPs not be installed or if the BMPs are ineffective, upon reasonable notice to the owner, the City may deny approval of any building permit, subdivision plat, site development plan, or any other City approval necessary to commence or continue construction, or to assume occupancy.
5. The owner of a construction activity site is responsible for compliance with the requirements in this subsection.
6. Any contractor on a construction site will also be required to use best management practices to minimize pollutants that enter into the storm sewer system.
7. All persons shall avoid damaging BMP devices once in place. Any person damaging a BMP device shall be responsible for the repair of the damaged BMP device. Malicious destruction of a BMP device or failure of such responsible person to repair BMP device will be deemed a violation of this chapter.

- B. Sites Requiring Federal and/or State NPDES Stormwater Discharge Permits.** All owners of, developers and contractors on construction activity sites that disturb one acre or greater, or that are part of a common plan of development one acre or greater or sale requiring said permit(s), shall comply with the following requirements (in addition to those in subsection A):

1. Any owner who intends to obtain coverage for stormwater discharges from a construction site under the Kansas Industrial General Permit or the Construction General Permit shall submit a signed copy of its notice of intent to the City Engineer's Office when a building permit application is made. If the construction activity is already underway upon the effective date of this chapter, the NOI shall be submitted within thirty days. When ownership of the construction site changes, a revised NOI shall be submitted within fifteen days of the change in ownership.
2. A stormwater pollution prevention plan shall be prepared and implemented in accordance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this chapter and any other city chapter
3. The SWPPP shall be prepared by a Licensed Professional Engineer or other qualified official approved by the City Officer and shall comply with State NPDES requirements. The signature of the preparer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the permit issued.
4. The SWPPP shall be completed prior to the submittal of the NOI to the City Building Inspector's Office and for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the NPDES permit.
5. The City Officer may require any owner who is required by subsection B.2 of this section to prepare a SWPPP, to submit the SWPPP, and any modifications thereto, to the City Building Inspector's Office for review at any time.
6. Upon the City Officer review of the SWPPP and any site inspection that he/she may conduct, if the SWPPP is not being fully implemented, the City may upon reasonable notice to the owner, deny approval of any building permit, site development plan, final occupancy certificate, or any other city approval necessary to commence or continue construction. A stop work order may also be issued.
7. All contractors working on a site subject to an Industrial General Permit or the Construction General Permit shall sign a copy of the appropriate certification statement prescribed in the *Construction Site Storm Water BMP Manual* before beginning work on the site.
8. All contractors will be responsible for their own activities to ensure that they comply with the owners' SWPPP. Failure to comply with the SWPPP or malicious destruction of BMP devices is hereby deemed a violation of this chapter.
9. The SWPPP and the certifications of contractors required by subsection B.7 of this section, and with any modifications attached, shall be retained at the construction site from the date of construction commencement through the date of final stabilization
10. City Officer may notify the owner at any time that the SWPPP does not meet the requirements of the NPDES permit issued or any additional requirement imposed by or under this chapter. Such notification shall identify those provisions of the permit or these chapters, which are not being met by the SWPPP, and identify which provisions of the SWPPP, require modification in order to meet such requirements. Within thirty days of such notification from the City, the owner shall make the required changes to the SWPPP and shall submit to the City Officer a written certification from the owner that the requested changes have been made.

11. The owner shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the storm sewer system or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.
12. Qualified personnel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within twenty-four hours of the end of the storm that is one-half (1/2") inch or greater. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the storm sewer system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the storm sewer system. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
13. Based on the results of the inspections required by subsection B.12 of this section, the pollution prevention measures identified in the SWPPP shall be revised as appropriate. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven calendar days following the inspection.
14. A report summarizing the scope of any inspection required by subsection B.12 of this section, and the names(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with subsection B.13 of this section above shall be made and refined on site or at a local office in Great Bend as part of the SWPPP. Such report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility complies with the SWPPP, the facility's NPDES permit, and this chapter. The report shall be certified and signed by the person responsible for making the inspection.
15. The owner shall retain copies of any SWPPP and all reports required by this chapter or by the NPDES permit for the site, and records of all data used to complete the NOI for a period of at least three years from the date that the site is finally stabilized.
16. Upon final stabilization of the construction site, the owner shall submit written certification to the City Building Inspector's Office that the site has been finally stabilized. The city may withhold the final occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the City Building Inspector has determined, following any appropriate inspection, that final stabilization has occurred and that any required permanent structural controls have been completed.

- C. Sites not requiring Federal and/or State NPDES Stormwater Discharge Permits which are less than one acre of undeveloped or redeveloped building lot sites shall comply with the following requirements:
1. All owners of, developers, contractors and subcontractors working on the construction activity sites shall sign a copy of the appropriate certification statement(s) prescribed in the *Construction Site Storm Water BMP Manual* before beginning work on the site.
 2. All owners of, developers, contractors and subcontractors on construction activity sites shall comply with the BMP(s) in the individual building lot layouts provided in the *Construction Site Storm Water BMP Manual*.

Sec. 13.30.070. Stormwater Discharges Associated with Industrial Activity.

- A. All operators of: (1) municipal landfills; (2) hazardous waste treatment, disposal, and recovery facilities; (3) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, U.S.C. Section 11023; industrial facilities required to obtain NPDES stormwater discharge permits due to their Standard Industrial Classification or narrative description; and (4) industrial facilities that the City Officer determines are contributing a substantial pollutant loading to the storm sewer system, which are sources of stormwater discharges associated with industrial activity, shall comply with the following requirements:
1. Any owner who intends, after the effective date of this chapter, to obtain coverage for a stormwater discharge associated with industrial activity under the Kansas the Industrial General Permit shall submit a signed copy of its notice of intent to the City Engineer.
 2. When required by their NPDES permit, all industries listed in this section shall prepare a Stormwater Pollution Prevention Plan and implement said plan in accordance with the requirements of their state or federal NPDES permit.
 3. The SWPPP, when required, shall be prepared and signed by a Professional Licensed Engineer or other qualified official approved by the City Officer will comply with all state NPDES requirements. The signature of the preparer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the NPDES permit.
 4. The SWPPP, when required, shall be updated and modified as appropriate and as required by the NPDES permit and this chapter.
 5. A copy of any NOI that is required by subsection A.I of this section shall be submitted to the City in conjunction with any application for a permit or any other City approval necessary to commence or continue operation of the industrial facility.
 6. City Officer may require any operator who is required by subsection A.2 of this section to prepare a SWPPP, to submit the SWPPP, and any modifications thereto, to the City Engineer's Office for review.
 7. Upon the City's review of the SWPPP and any site inspection conducted, the City Officer may upon reasonable notice to the owner deny approval necessary to commence or continue operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the NPDES permit, or any additional

requirement imposed by or under this chapter. Also, if at any time the City Officer determines that the SWPPP is not being fully implemented, upon reasonable notice to the owner, he/she may deny approval of any application for a permit or other city approval necessary to commence or continue operation of the facility.

8. The SWPPP, if required, with any modifications attached, shall be retained at the industrial facility from the date of commencement of operations until all stormwater discharges associated with industrial activity at the facility are eliminated and the required NOT has been submitted.
9. The City Officer may notify the owner at any time that the SWPPP does not meet the requirements of the NPDES permit, or any additional requirement imposed by or under this chapter. Such notification shall identify those provisions of the permit or chapter, which are not being met by the SWPPP, and identify which provisions require modification in order to meet such requirements. Upon thirty days of such notification from the City, the owner shall submit to the City Engineer's Office a written certification that the requested changes have been made.
10. The owner shall amend the SWPPP, if required, whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the storm sewer system or to the waters of the United States, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.
11. As may be required by the facilities NPDES permit, qualified personnel (provided by the owner) shall inspect equipment and areas of the facility specified in the SWPPP at appropriate intervals or as may be specified in their NPDES permit. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.
12. Industrial facilities will implement a sampling and testing program as required by their individual NPDES permits. The City may require written reports of any such monitoring and testing to be submitted.
13. The owner shall retain the SWPPP and all sampling and testing reports until at least one year after stormwater discharges associated with industrial activity at the facility are eliminated, or the operator is no longer operating the facility, and a NOT has been submitted.
14. For discharges subject to the semi-annual or annual monitoring requirements of the industrial general permit, in addition to the records-retention requirements of the paragraph above, owners are required to retain for a six-year period from the date of sample collection, records of all sampling and testing information collected. Owners must submit such monitoring results, and/or a summary thereof, to the City Engineer upon his/her request.
15. After the effective date of this chapter, no stormwater discharge shall contain any hazardous metals in a concentration that would result in the violation of any Kansas Surface Water Quality Standard.

Sec. 13.30.080. Ditches and Ponds.

- A. The owner of any private drainage ditch or pond that empties into the city's storm sewer system or the waters of the United States has a duty to use Best Management Practices (BMPs) on the ditches or pond to minimize the pollutant levels downstream. Such BMPs include, but are not limited to, removing excessive build-up of silt, repairing bank erosion, maintaining vegetative cover, the cleaning of inlet and outlet works.
- B. The City will periodically inspect these privately owned ditches and ponds. Should conditions be found that caused the pollution of downstream receiving waters, the City shall so notify the owners, and state what actions are expected by the owners to remedy the problem.
- C. Should the owners fail to make the necessary repair within sixty days after notice, the city is authorized to do the repairs at the expense of the owner. Should the owner fail to reimburse the city for the cost of the repairs upon demand, the city may assess the cost thereof to the owner and initiate any collection proceedings authorized by law.

Sec. 13.30.090. Compliance Monitoring.

- A. The City Officer, shall have the right to enter the premises of any person discharging stormwater to the city's storm sewer system or to waters of the United States at any reasonable time to determine if the discharger is complying with all requirements of this chapter, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the inspectors ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. No adverse action will be taken against any property owner or resident who refuses to grant such right-of-entry.
- B. Subject to the requirements of subsection A, dischargers shall make available, upon request, any SWPPP, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this chapter and with any state or federal discharge permit.
- C. The City shall have the right to set up on the discharger's property such devices that are necessary to conduct sampling of stormwater discharges.

Sec. 13.30.100. Subdivision Development

- A. The developer of any subdivision requiring a federal or state NPDES stormwater discharge permit will be responsible for obtaining the required permit and developing and implementing an overall SWPPP for the subdivision. Said SWPPP shall include BMPs to be used on individual lot building sites regardless of the issuance of a NOT.
- B. City contractors installing public streets; water, sanitary sewer, storm sewer lines; and/or sidewalks will be required to comply with the developers SWPPP and sign the appropriate contractor certification statement. For city contracted work in public right-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the

city shall be responsible for obtaining the required permit and preparing the SWPPP, while the City contractor will be responsible for implementing the required SWPPP.

- C. Any utility company installing utilities within a new subdivision will also be required to comply with the developers SWPPP and sign the appropriate contractor certification statement. For work in public rights-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the utility company shall be responsible for obtaining the required permit and preparing and implementing the required SWPPP.
- D. The purchasers of individual lots within the subdivision shall comply with the developers SWPPP by following the BMPs to be used on individual lot building sites, and shall sign a certification statement agreeing to do so.

Sec. 13.30.110. Enforcement Actions.

- A. The discharge of, or potential discharge of, any pollutant to the storm water system or waters of the United States; failure to obtain a federal or state stormwater discharge permit; the failure to prepare or implement a SWPPP when required by a federal or state permit; the failure to use effective BMP devices; the malicious destruction of BMP devices; failure to repair BMP devices; the failure to comply with any directive, citation, or order issued under this chapter; are violations of this chapter for which enforcement action may be taken.
- B. Prior to taking any enforcement action as specified in this section, a violator will be issued a notice of violation that will detail the nature of the violation, actions to be taken to remedy the violation, actions to be taken to clean-up any pollutants, and any specific time periods within which to accomplish said actions.
- C. The enforcement actions to be taken under this chapter are as follows:
 - 1. Any violation of any provision of this chapter shall be considered a Class C violation as defined by the Uniform Public Offense Code as it may be from time to time adopted and amended by the City and any person violating any provision of this chapter shall be so punished. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.
 - a. When the City Officer finds that any stormwater discharger has violated or continues to violate the provisions set forth in this chapter, or the discharger's NPDES permit or any order issued thereunder, the City may issue an order for compliance to the discharger. Such orders may contain any requirements as might be reasonably necessary and appropriate to address noncompliance including, but not limited to, the installation of best management practices, additional self-monitoring, and/or disconnection from the storm sewer system.
 - b. The City Officer is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial discharger responsible for noncompliance. Such orders shall include specific action to be taken by the discharger to correct the noncompliance within a time period specified by the order.
 - c. Notwithstanding any other remedies or procedures available to the city, any discharger who is found to have violated any provision of this chapter, or any NPDES permit or any order issued under this chapter, may be assessed a criminal penalty as follows:
 - 1) Failure to obtain required NPDES permit;

- 2) Failure to prepare stormwater pollution prevention plan;
 - 3) Failure to install best management practices;
 - 4) Failure to maintain best management practices;
 - 5) Failure to perform required sampling and testing or provide testing reports.
2. It shall be a violation of this chapter for any person to hinder or interfere with the city officer or his or her designee in the discharge of their duties under the provisions of this chapter.

Sec. 13.30.120. Appeal Process.

- A. The process for all appeals of enforcement actions pursuant to this Chapter shall be in accordance with Chapter 2.108, *Board of Zoning Appeals*.

Sec. 13.30.130. Enforcement Authorized.

- A. The following personnel employed by the city shall have the power to issue notices of violations, citations and implement other enforcement actions under this chapter:
1. All authorized personnel under the supervision of the Director of Public Works;
 2. All authorized personnel under the supervision of the Fire Chief;
 3. All authorized personnel under the supervision of the City Engineer;
 4. All authorized personnel under the supervision of the City Administrator.

Sec. 13.30.140. Supplemental Enforcement Actions.

- A. *Performance Bonds*. Where necessary for the reasonable implementation of this chapter, the City may, by written notice, order any owner of a source of stormwater discharge associated with industrial activity effected by this chapter to file a satisfactory bond, payable to the city, in an amount determined by the City Engineer to be necessary to achieve consistent compliance with this chapter. The city may deny approval of any building permit, subdivision plat, site development plan, or any other city permit or approval necessary to commence or continue construction or industrial activity at the site, or to assume occupancy, until such a performance bond has been filed.
- B. *Liability Insurance*. Where necessary for the reasonable implementation of this chapter, the City may, by written notice, order any owner of a source of stormwater discharge associated with industrial activity effected by this chapter to submit proof that it has obtained liability insurance, or other financial assurance, in an amount determined by the City Engineer, that is sufficient to remediate, restore, and abate any damage to the MS4, the waters of the United States, or any other aspect of the environment that is caused by the discharge.

Sec. 13.30.150. Severability.

If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect.

Sec. 13.30.160 to 13.30.260 Reserved.