

Storm Water Management, Land Disturbance, and Erosion & Sediment Control Model Ordinance

Introduction

During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causing the degradation of aquatic habitat for fish and other desirable species. The deposition of eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for citizens of the Hillsdale Watershed.

The intent of this regulation is to safe guard the public, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in _____, Kansas.

Scope

The following regulation focuses on the need to consider storm drainage, grading activities, and erosion and sediment control practices as part of the land development process.

SECTION 1

GENERAL PROVISIONS

Purposes

The purpose and objectives of this Article are as follows:

- I. To maintain and improve the quality of water impacted by the storm drainage system within the City of _____.
- II. To prevent the discharge of contaminated storm water runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of _____.
- III. To promote public awareness of the hazards involved in the improper discharge of pollutants, such as trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, and other pollutants into the storm drainage system.
- IV. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
- V. To facilitate compliance with local, state and federal standards and permits by owners of construction sites within the City.
- VI. To enable the City to comply with federal, state, and local laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for storm water discharges.

Abbreviations

The following abbreviations when used in this Article shall have the designated meanings:

BMP	-	Best Management Practices
CFR	-	Code of Federal Regulations
EPA	-	U.S. Environmental Protection Agency
KDHE	-	Kansas Department of Health and Environment
MS4	-	Municipal Separate Storm Sewer System
NPDES	-	National Pollutant Discharge Elimination System
SWP3	-	Storm Water Pollution Prevention Plan

Definitions

For the purposes of Chapter __, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

- *Agricultural Crop Management Practices* shall mean all land farming operations, including plowing or tilling of land for the purpose of crop production or the harvesting of crops.
- *Applicant* shall mean any person who submits an application to the City for a permit pursuant to this ordinance.
- *Best Management Practices (BMP)* shall mean the management practices and methods to control pollutants in storm water. BMP are of two types: "source controls" (nonstructural) and "treatment controls" (structural.) Source controls are practices that control pollution by reducing potential pollutants at their source, before they come into contact with storm water. Treatment controls remove pollutants from storm water.
- *Building* shall mean any structure used or intended for supporting or sheltering any use or occupancy.
- *City* shall mean the City of _____, Kansas.
- *Clearing* shall mean any act by which vegetative cover, structures or surface material is removed, including, but not limited to, root mat or topsoil removal.
- *Commercial shall mean* any business, trade, industry, or other activity engaged in for profit.
- *Construction Site* shall mean any location where construction activity occurs.
- *Contaminated* shall mean containing harmful quantities of pollutants.
- *Contractor* shall mean any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to,

earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

- *Detention shall mean* a storm water management technique of which the primary function is to control the peak rate of storm water surface runoff by utilizing temporary storage and a controlled rate of release. This may include, but shall not be limited to, the use of reservoirs, roof tops, parking areas, holding tanks, in-pipe and in-channel storage.
- *Detention facility shall mean* a temporary or permanent natural or man made structure that provides for the temporary storage of storm water runoff.
- *Developer shall mean* any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in development.
- *Development shall mean* any man-made change to improved or unimproved real property including the construction or reconstruction of buildings or structures; paving, excavation, grading, filling or similar operations; or the filing and recording of a subdivision plat.
- *Director shall mean* Director for the City or the Director of Public Works authorized representative.
- *Discharge shall mean* any addition or release of any pollutant, storm water or any other substance whatsoever into a storm drainage system.
- *Easement shall mean* authorization by a property owner for use by another person or persons of all or any portion of the owner's land for a specified purpose.
- *Environmental Protection Agency (EPA) shall mean* the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.
- *Erosion shall mean* the wearing away of the ground surface as a result of the movement of wind, water, ice, gravity, artificial means and/or land disturbance activities.
- *Erosion and Sediment Control Plan (Plan) shall mean* a plan which includes a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which pre-construction and construction related land disturbances, fills, and soil storage occur, and before final improvements are completed, all in accordance with the specific requirements set forth in Section _____ of Chapter _____.

- *Erosion and Sediment Control Standards* shall mean the erosion and sediment control design criteria and specifications adopted in writing by the Director as part of the Storm Water Management Plan.
- *Excavation* shall mean any act by which soil is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed, and includes the conditions that result from that act.
- *Facility* shall mean any building, structure, installation, from which there is or may be a discharge of a pollutant.
- *Fertilizer* shall mean a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily in promoting or stimulating the growth of a plant or improving the quality of a crop.
- *Fire Protection Water* shall mean any water, including any substances or materials contained therein, used by any person to control or extinguish a fire or to inspect or test fire equipment.
- *Fill* shall mean any act by which soil is deposited, placed, pushed, pulled, or transported and includes the conditions that result from that act.
- *Floodplain* shall mean the land area adjoining a river, stream, watercourse, or lake which is likely to be flooded in the event of a one-hundred-year flood, or as shown on the National Flood Insurance Program maps, or as designated by Johnson County or by the City of _____ Kansas as a floodplain system where the City or the County is not under the national Flood Insurance Program.
- *Garbage* shall mean animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.
- *Grading* shall mean any act by which soil is cleared, stripped, moved, leveled, stockpiled, or any combination thereof, and includes the conditions that result from that act.
- *Groundwater* shall mean any water residing below the surface of the earth or percolating into or out of the earth.
- *Hazardous Substance* shall mean any substance listed in Table 302.4 of 40 CFR Part 302.
- *Hazardous Waste* shall mean any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
- *Illicit Discharge* shall mean any discharge to the storm drainage system that is prohibited under this Article.

- *Industrial Waste* (or commercial waste) shall mean any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.
- *Inspection* shall mean the periodic field review of erosion and sediment control measures as defined in the erosion and sediment control plan for the purposes of determining compliance.
- *Land Disturbance* shall mean any act by which soil is moved and land changed that may result in erosion or the movement of sediments, and may include tilling, clearing, grading, excavating, stripping, stockpiling, filling and related activities, and the covering of land surfaces with an impermeable material.
- *Land Disturbance Permit* shall mean the permit required for any land disturbance activity.
- *Maximum Extent Practicable* shall mean the use of those best management practices, which, based on sound engineering and hydro-geological principles, will, to the greatest degree possible, given all relevant considerations, including technology, climate and site conditions, prohibit erosion and sedimentation from a site during and after development.
- *Mobile Commercial Cosmetic Cleaning* (or mobile washing) shall mean power washing, steam cleaning and any other method of mobile cosmetic cleaning of vehicles and/or exterior surfaces engaged in for commercial purposes or related to a commercial activity.
- *Municipal Separate Storm Sewer System (MS4)* shall mean the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying storm water, and not used for collecting or conveying sanitary sewage.
- *NPDES* shall mean the National Pollutant Discharge Elimination System.
- *NPDES Permit* shall mean a permit issued by EPA or KDHE, as the permitting agency, that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- *Notice of Violation* shall mean a written notice detailing any violations of this Article and any action expected of the violators.
- *Oil* shall mean any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

- *One Hundred Year Storm* shall mean a rainstorm having a one-percent probability of occurrence in any given year.
- *Owner* shall mean the person who owns a facility, part of a facility or land.
- *Permit* shall mean a written permission giving consent for a specific activity.
- *Person* shall mean 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.
- *Pesticide* shall mean a substance or mixture of substances intended to prevent, destroy, repel or migrate any pest.
- *Pet Waste (or Domestic Animal Waste)* shall mean excrement and other waste from domestic animals.
- *Petroleum Product* shall mean a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.
- *Plat* shall mean a legally recorded plan of a parcel of land indicating the location and dimension of such features as streets, alleys, lots, easements and other elements pertinent to a subdivision
- *Pollutant* shall mean any substance attributable to water pollution, including but not limited to rubbish, garbage, solid waste, litter, debris, yard waste, pesticides, herbicides, fertilizers, pet waste, animal waste, domestic sewage, industrial waste, sanitary sewage, wastewater, septic tank waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste, soil and sediment.
- *Pollution* shall mean the alteration of the physical, thermal, chemical, or biological quality of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
- *Private Storm Drainage System* shall mean all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey storm water, including but not limited to roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams.

- *Project* shall mean any man-made change involving the construction, reconstruction, maintenance or improvement of real property and structures .
- *Public Owned Improvements* shall mean improvements such as (but not limited to) concrete channel liner, improved channel, pipes of various sizes and materials, box culverts and miscellaneous other concrete structures all on public property or in a public easement.
- *Public Property* shall mean property owned by the City, State, or Federal government or dedicated to such agency.
- *Public Storm Drainage System* shall mean any underground-enclosed pipe system and/or improved channel that is on public property or within a public easement.
- *Qualified Person* shall mean a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.
- *Release* shall mean to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.
- *Sampling* shall mean the procedures associated with the determination of settleable solids and may include suspended solids in a discharge sample of water.
- *Sediment* shall mean any solid material, mineral or organic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, or gravity.
- *Sediment Control* shall mean measures that prevent sediment from leaving the site.
- *Site* shall mean a parcel of land, or a combination of parcels contiguous on which grading is performed as a single unified operation.
- *Small Quantity Generator Waste* shall mean any hazardous waste generated by a small quantity generator as defined in K.A.R. 28-31-2.
- *Soil* shall mean the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.
- *Soil Storage* shall mean the activity of depositing soil or other earth materials for later use or disposal.

- *Solid Waste* shall mean any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.
- *Stabilization* shall mean practices that prevent exposed soil from eroding.
- *State* shall mean The State of Kansas.
- *Storm Drainage System* shall mean all surfaces, structures and systems that contribute to or convey storm water, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.
- *Storm Water* shall mean runoff resulting from precipitation.
- *Storm Water Pollution Prevention Plan (SWP3)* shall mean a document that describes the Best Management Practices to be implemented at a site, to reduce to the maximum extent practicable the discharge of pollutants.
- *Storm Water Runoff* shall mean water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.
- *Structure* shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- *Subdivision Development* shall mean activities associated with the platting of any parcel of land into two or more lots and includes all construction activity-taking place thereon.
- *These Regulations* shall mean the Ordinance in its entirety.
- *Uncontaminated* shall mean not containing harmful quantities of pollutants.
- *Used Oil (or Used Motor Oil)* shall mean any oil that, as a result of use, storage or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.
- *Utility Agency* shall mean private utility companies, City departments or contractors working for private utility companies or City departments and are engaged in construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.
- *Vegetative Cover* shall mean any grasses, shrubs, trees and other vegetation that hold and stabilize soils.

- *Water of the State (or water)* shall mean any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals inside the jurisdictional limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.
- *Water Quality Standard* shall mean the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or Federal regulatory standards to be necessary to protect those uses.
- *Waters of the United States)* shall mean all waters which are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other Waters the United States, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as Waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and 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.
- *Yard Waste* shall mean leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

PUBLIC AND PRIVATE RESPONSIBILITIES UNDER THE STORM WATER MANAGEMENT SYSTEM

Public Responsibilities:

Administration: The administration and enforcement of these regulations ordinance shall be the responsibility of the Director.

Operation and Maintenance of Public Owned Facilities:

The City's Department of Public Works shall be responsible for all maintenance of the city owned Public Storm Drainage System either improved or unimproved, located on public right-of-way or city owned property. Maintenance of public owned drainage systems located on private property with public easements shall be limited to the public owned improvements such as concrete structures, pipe systems, and improved channels.

It shall be the responsibility of the property owner, occupant or agent in charge of private property, upon which the public storm drainage system exists, to maintain all vegetation including mowing, trimming and/or removal of dead trees and shrubs and providing of such other general maintenance as is required to maintain the free flow

of storm water.

Private Responsibilities:

Maintenance and operation of a private storm drainage system is the responsibility of the owner of the property. Each developer or owner of land within the City has the responsibility to provide approved storm water runoff management facilities to ensure the adequate drainage and control of storm water on the developer's or owner's property both during and after construction of such facilities.

Each developer or landowner has the responsibility and duty before, during and after construction to properly operate and maintain any on-site storm water runoff control facility that has not been accepted for maintenance. This responsibility shall remain with the owner of the property on which the facility is located. This responsibility shall be passed on to subsequent owners through appropriate covenants in deeds or other documents of conveyance. This maintenance shall include, keeping these facilities free and clear of weeds, brush and vegetation, removal of debris or any other waste material that might impede or hinder the facility's intended use, erosion repair, and removal of silt and maintenance of structural facilities that have not been accepted for maintenance by the City.

On or before May 1, of each year, owners of detention basins and associated facilities, shall furnish certification by a professional engineer licensed in the State of Kansas that the detention basin has the storage capacity designated by the plan approving its construction and that all associated facilities including inlet and outlet structures are fully functional.

Each property owner or resident adjacent to a natural drainage channel not maintained by the City shall maintain the free flow character by prompt removal of debris, overgrowth or downed trees and limbs and unapproved structures. Property owners shall cooperate by overseeing their properties without encouragement of the City. In the event the City, in accordance with City codes and ordinances issues an Official Notice, the property owner shall comply and may request the City's assistance as outlined herein.

If the grading of a swale is required for the conveyance of the 100-year flow, an applicant for plan approval will be required to dedicate necessary easements. The maintenance of overflow swales along property lines shall be the responsibility of the property owner.

SECTION 2.

PROHIBITIONS AND REQUIREMENTS

Prohibitions

- (1) No person shall knowingly release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated storm water, except as allowed in Section_____. Common storm water contaminants include trash, yard waste, lawn chemicals, pet

- waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
- (2) Notwithstanding the provisions of Section _____, any discharge shall be prohibited by this Section if the discharge is determined by the Director to be a source of pollutants to the storm drainage system.
 - (3) The existence, construction, use or maintenance of illicit connections to the storm drain system is prohibited.
 - (4) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste to the storm drainage system, or allow such a connection to continue.
 - (5) No person shall knowingly destroy or interfere with Best Management Practices implemented pursuant to this Article.

Exemptions

The following non-storm water discharges shall not be deemed to violate this Section:

- (1) Uncontaminated waterline flushing and other occasional discharges from potable water sources;
- (2) Occasional uncontaminated discharges from landscape irrigation or lawn watering;
- (3) Occasional discharge from the non-commercial washing of vehicles;
- (4) Un-contaminated discharges from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
- (5) Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs;
- (6) Diverted stream flows and natural riparian habitat or wetland flows;
- (7) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

Requirements Applicable to Certain Dischargers

- (1) **Private Drainage System Maintenance.** Owners of private drainage systems shall maintain the system to prevent, to the maximum extent practicable, the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- (2) **Minimization of Irrigation Runoff.** A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
- (3) **Cleaning of Paved Surfaces Required.** The owner of any paved parking lot, street or drive shall clean the pavement, as required, to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this ordinance. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Article. This section does not apply to pollutants discharged from construction activities regulated by Section _____.

- (4) **Maintenance of Equipment.** Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment shall be maintained to reduce leaking fluids.
- (5) **Materials Storage.** In addition to other requirements of this regulation, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
- (6) **Pet waste** shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.
- (7) **Pesticides, Herbicides and Fertilizers.** Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
- (8) **Prohibition on Use of Pesticides and Fungicides Banned from Manufacture.** Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any Federal, State or City regulation, is prohibited.
- (9) **Maintenance of Open Drainage Channel Systems.** Every person owning or occupying property, through which an open drainage channel passes, shall keep and maintain that part of the drainage channel free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that these structures will not become a hazard to the use, function, or physical integrity of the drainage channel.

Release Reporting and Cleanup

Any person responsible for a known or suspected release of materials, which results in or may result in an illegal discharge to the storm drainage system, shall take necessary steps to ensure the discovery, containment, abatement and cleanup of the release. In the event of such a release of a hazardous material, said person shall comply with state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. In the event of a release of non-hazardous materials, said person shall notify the Director no later than 5:00 p.m. of the next business day.

Authorization to Adopt and Impose Best Management Practices

The City may adopt requirements imposing Best Management Practices (BMP) for any activity, operation, or facility that may cause a discharge of pollutants to the storm drainage system. Where specific BMP are required, every person undertaking such activity or operation or owning or operating such facility shall implement and maintain these BMP at their own expense.

SECTION 3

STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

General Requirements for Construction Sites

- (1) The owner of a site upon which construction activity is occurring shall be responsible for compliance with the requirements of this Section.
- (2) Waste Disposal. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of Best Management Practices. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Waste shall be contained in such a manner as to ensure that it will not blow, wash or otherwise be released from the site.
- (3) Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall be contained on construction sites for proper disposal. Release of these materials is prohibited.
- (4) Erosion and Sediment Control. Best Management Practices shall be implemented to prevent, to the maximum extent practicable, the release of sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern.
- (5) Upon completion of construction activities on any site, the owner of the property is responsible for continued compliance with the requirements of Section _____, in the course of maintenance, reconstruction or any other construction activity on the site.

Construction Sites Requiring an Approved SWP3

This section applies to construction sites excluding subdivision developments. Where construction activity will disturb soil or remove vegetation on one (1) or more acres of land during the life of the project, an approved Storm Water Pollution Prevention Plan (SWP3) must be submitted, approved and implemented by the owner as follows:

- (1) A SWP3 shall include a general description of the site conditions, and the proposed phased approach to grading, if any. In addition to the general description of an erosion and sediment control plan per Section _____, complete Storm Drainage Study per Section _____, a grading plan per Section _____, shall be submitted meeting the requirements of the Land Disturbance permit per Section _____.
- (2) The area disturbed shall be assumed to include the entire property area unless applicable plans specifically exclude certain areas from disturbance.

- (3) Two copies of the SWP3 shall be submitted to the City for approval.
- (4) The preparation and implementation of the SWP3 must comply with Section _____.
- (5) The Director will return either a letter of SWP3 approval or a request for revisions within 14 days of submission of the SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the Director has issued a letter of SWP3 approval.
- (6) The owner/contractor bears the responsibility for implementation of the SWP3 and notification of the SWP3 and the responsibility with respect thereto, of all contractors and utility agencies on the site.

Subdivision Developments Requiring an Approved SWP3

This section applies to subdivision development where development will disturb soil or remove vegetation on one (1) or more acres of land during the life of the development of the project, a Storm Water Pollution Prevention Plans (SWP3s) for the project must be submitted for the project and implemented by the owner as follows:

- (1) The area disturbed shall be assumed to include the entire platted area.
- (2) SWP3s must be provided by the subdivision owner and included in Public Improvement Plans for the submitted to the Director.
- (3) The preparation and implementation of SWP3s must comply with Section _____.
- (4) An SWP3 must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading and the construction of individual homes. The owner will not be required to provide an SWP3 for the activities of utility agencies within the subdivision. Utility construction is addressed in Section _____.
- (5) Approval of Public Improvement Plans by the Director will constitute approval of the included SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence until the Public Improvement Plans are approved for the development.
- (6) The owner shall provide a copy of the approved SWP3s to all utility agencies prior to their commencement of activity within the subdivision.
- (7) The subdivision owner bears the responsibility for implementation of the approved SWP3 for construction activity within the development, excluding construction under the control of subsequent owners of individual lots and construction managed by utility agencies.

- (8) The subsequent owner/contractor of an individual lot bears the responsibility for continued implementation of the approved SWP3s for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.

Permit and/or approved plan; expiration and renewal.

- 1. The permit shall be valid from the time that it is issued until a final certificate of occupancy or completion certificate pursuant to Section _____ has been issued.
- 2. If the permittee sells the property before the expiration of the permit, the permit may be assigned to the new owner of the site, if the assignment is approved in writing by the Planning Director, provided that the permittee shall remain responsible for compliance with the permit until a final certificate of occupancy is issued or a completion certificate is issued pursuant to Section_____.
- 3. If the permittee sells any portion of the property before the expiration of the permit, the permittee will remain responsible for that portion of the property until one of the following events occur:

The new owners of the property, with respect to property covered by a permit, makes all submissions required by this Chapter, which are not waived, to the Planning Director and he or she approves the plan and issues the new owner a permit; Storm Water Pollution Prevention Plans (SWP3).

Preparation and implementation of Storm Water Pollution Prevention Plans for construction activities shall comply with the following:

Preparation

- (1) The SWP3 shall be prepared under the direction of a qualified person.
- (2) The SWP3 shall provide the name, address and phone number of the project owner for purposes of correspondence and enforcement.
- (3) The SWP3 shall identify existing natural resources such as streams, wetlands, forest cover and other established vegetative cover.
- (4) The SWP3 shall specify and provide detail for BMP necessary to meet the requirements of this Article, including any applicable BMP that have been adopted and imposed by the City.
- (5) The SWP3 shall specify when and where each BMP will be installed, and for how long it will be maintained within the construction sequence. Multiple plans may be required for major phases of construction, such as rough grading, building construction and final grading.

- (6) The SWP3 shall delineate anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization.

Implementation

- (1) BMP shall be installed and maintained by qualified persons. Upon the Director's request the owner shall provide a copy of the SWP3 on site within one hour during construction activity, or within the next business day for periods of inactivity, and shall be prepared to respond to maintenance of specific BMP.
- (2) The owner shall inspect BMP at least once per month and within the next business day after a rainfall of one-half of an inch or more, as measured at the site or generally reported in the area. The owner shall be required to keep a log of inspection activity on site at all times.

Based on inspections performed by the owner or by City personnel, necessary modifications shall be made to the SWP3, if at any time the specified SWP3 or BMP do not meet the objectives of this Article. In this case, the owner shall meet with the Director to determine the appropriate modifications. Required modifications shall be completed within seven (7) days of the referenced inspection, and shall be recorded on the owner's copy of the SWP3.

Requirements for Utility Construction

- (1) Utility agencies shall be responsible for compliance with the requirements of Section _____.
- (2) Utility agencies shall develop and implement (BMP) to prevent, to the maximum extent practicable, the discharge of pollutants on any site within the City where utility construction is occurring. In addition, the City may require specific BMP for utility construction activity.
- (3) Utility agencies shall implement BMP to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern.
- (4) Prior to entering a construction site or subdivision development, utility agencies shall obtain a copy of the SWP3s for the project. The utility company in compliance with the SWP3 shall repair any disturbance to BMP resulting from utility construction immediately.

PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORM WATER DRAINAGE STUDY

No development shall increase the quantity and rates of storm water emanating from the land, on which the development occurs, except in accordance with an

approved Storm Water Drainage Study as provided for in these regulations. A professional engineer shall prepare the Storm Water Drainage Study. The Director shall not issue a public works permit or approve any construction plans prior to the approval of the Storm Water Drainage Study.

STORM WATER MANAGEMENT PLAN

A Storm Water Management Plan shall accompany the preliminary application for land development submitted in accordance with the City's ordinances. This plan shall contain the following information and data:

- (1) A site plan of suitable scale and contour interval showing topographical information of the land to be developed and adjoining land whose topography may affect the proposed layout or drainage patterns for the development.
- (2) A general plan of final contours of the site development shall be shown, as shall all existing streams, waterways, channels, lakes and the extent of the established floodplain and date of the floodplain map used.
- (3) A drainage map showing the location and calculated flow rates of all adjacent storm drainage facilities.
- (4) A hydraulic and hydrologic summary table showing the 10 and 100-year flows for ultimate development.
- (5) A general discussion of the type and characteristics of soils contained in the development area.
- (6) A discussion of the concepts to be considered in the development to handle storm water, including the methods to be utilized to detain or control increased storm water runoff generated by the proposed development.
- (7) A preliminary plan of proposed storm drainage facilities including preliminary calculations of storm water runoff to be handled by these facilities, basic information regarding the effects the proposed project will have on the receiving streams or channels for a distance as far downstream as the runoff will have a noticeable effect. The plan should also include the proposed routing of the 100-year storm water runoff.
- (8) Following the receipt of the Storm Water Drainage Study, a general review meeting shall be conducted with the Director, representatives of the Developer, and the Developer's Engineer. The purpose of this review meeting shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed development on existing or future adjacent developments.

FINAL CONSTRUCTION PLANS

Following the review and acceptance of the Storm Water Management Plan by the Director, final construction plans shall be prepared for each phase of the proposed project as each phase is developed. The submittal of the final plans

shall coincide with application for final approval of the development and shall constitute a refinement of the concepts approved in the plan. If a project is to be phased, the total area of the conceptual project shall be considered in all calculations and the facility shall be designed for each phase, which shall be compatible with those of the total development plan.

Final Construction Plans for any development shall conform to the construction standards set forth in the City's ordinances, including those set forth in Section _____ of the City's codes.

Final Construction Plans shall also include the following information unless specifically excluded by the Director during the preliminary review of the plans.

- I. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of flood plains and calculated high water elevations, the shoreline of lakes, ponds swamps, and detention basins including their inflow and outflow structures, if any.
- II. The location and flow line elevation of existing sanitary and storm water sewers that fall within the project limits and within a distance of 200 feet beyond the exterior boundaries of the project.
- III. Runoff calculations for the entire project site following project completion, indicating volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine these runoff volumes and rates, and a summary of the criteria that have been used by the design engineer.
- IV. A layout of the proposed storm water system, including the location and size of all drainage structures, storm water sewers, channel and channel sections, detention basins, and analyses regarding the effect the system would have upon the receiving channel. If applicable, the layout shall also include 100-year flood elevations at lot corners along all open channels improved or natural, 100-year overflow swales and detention basins.
- V. The slope, type, size, flow calculations and 10-year and 100-year energy grade line for all existing and proposed storm sewers and other waterways.
- VI. A grading and erosion and sediment control plan for the project site as described in Section _____ and _____ of this Article.
- VII. For developments with permanent water bodies, the plan shall show the location of a silt basin and proposed access to the basin for periodic removal of silt and debris. The plans shall also show proposed aeration for the water body.
- VIII. A profile and cross-sections of existing and proposed channels or other open drainage facilities, showing existing conditions and the proposed changes thereto, together with the 100-year floodplain elevations expected from storm water runoff under the controlled conditions called for by these regulations and the relationship of structures, streets, and other utilities to the channels.
- IX. Final construction plans shall be submitted to the Director. The plans shall be in accordance with current engineering practice and the proposed plan provide control of storm water runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to

the public health, safety and protection of property and general welfare. If approved, a permit for the construction shall be granted. If disapproved, the application and data shall be returned to the applicant for corrective action and resubmitted.

STORM WATER MANAGEMENT DESIGN CRITERIA AND PERFORMANCE STANDARDS

Unless otherwise modified by the Director, the following rules shall govern the design of improvements with respect to managing storm water runoff:

- I. Development Design - Streets, blocks, depth of lots, parks, and other public grounds shall be located and laid to minimize the velocity of overland flow, allow maximum opportunity for infiltration of storm water into the ground, preserve and utilize existing and planned streams, channels and detention basins, and include, whenever possible, streams and floodplains within park and other public grounds.
- II. Storm Water System Design -The latest approved edition of the Standard Specifications and Design Criteria, Division II, Section 2600, Construction and Material Specifications, adopted _____, and Section 5600, Storm Drainage Systems and Facilities, of the Standard Specifications and Design Criteria, adopted _____, prepared by the Kansas City Metropolitan Chapter American Public Works Association, or the latest edition as amended, which is by reference made a part hereof as though expressly incorporated, shall govern the design and construction of storm sewer systems within the City, this Article, except as otherwise noted herein.
- III. Methods of Controlling Downstream Flooding- The Storm Water Management Plan shall identify downstream flooding impacts of the proposed development. If the Storm Water Management Plan indicates the proposed development will cause or increase downstream flooding conditions, provisions to minimize such flooding conditions, to the maximum extent practicable, shall be included in the design of storm drainage improvements.
- IV. Downstream Improvements- Improvements to minimize downstream flooding conditions may include the construction of dams, dikes, levees, and floodwalls; culvert enlargements; and channel clearance and modification projects.
- V. Detention Basins- Detention basins shall be designed in accordance with Chapter 5600, Storm Drainage Systems and Facilities, of the Standard Specifications and Design Criteria, adopted _____, prepared by the Kansas City Metropolitan Chapter American Public Works Association, or the latest edition as amended, which is by reference made a part hereof as though expressly incorporated in this Article, shall govern the design and construction of storm sewer systems within the City except as otherwise noted herein.
- VI. Outlet Control Works- Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation. Size and hydraulic characteristics shall be such that all water in the detention storage is released to the downstream storm drainage system within 24 hours after the end of the design rainfall.

- VII. Other Design Considerations- Storm water detention basins shall be designed with a capability sufficient to pass a 100-year storm event from a fully developed watershed basin through the outlet works without causing failure of the embankment. It is not the intent of this requirement to entail any additional reduction of the peak runoff rate; but to assure the integrity and safety of the structure.
- VIII. Appearance- Pipes, drainage structures, outlet works, or other necessary structural features, such as fences and a gates of detention basins shall be devised to be the minimum in number and to be inconspicuous. Screening and/or landscaping shall be included and shall be as approved by the Director as a part of the final construction plans.

PERFORMANCE STANDARDS

- I. Storm Water Channel Location – Acceptable locations of storm water runoff channels in the design of a subdivision or other development may included the following:

Channels, which are permitted as outlined in Chapter 5600 of the Standard Specifications and Design Criteria adopted _____, prepared by the Kansas City Metropolitan Chapter American Public Works Association or current edition. Channels shall be centered on back lot lines or entirely within the rear yards of a single row of parcels. In each of the foregoing cases, if the improved channel is to be maintained by the City, a drainage easement to facilitate access, maintenance and design flow shall be provided and shown on the plat. Only improvements as shown on construction plans will be allowed to be constructed within or across storm water channels.

- II. Storm Water Sewer Outfall – The storm sewer outfall shall be designed to provide adequate protection against downstream erosion and scouring. All pipe shall discharge in the direction of the channel flow. The flow line of the pipe outfall shall be at the normal pool elevation or channel bottom, if dry.
- III. Lot Lines – Whenever the plans call for the grading of swales for the passage of storm water runoff, the grading of all affected lots shall be prescribed and established for the passage of waters. No structure, which will obstruct the storm water, may be erected in these areas.

In addition, installation of fences and the planting of shrubbery or trees within the areas are not permitted. Changes in the grade and contours of the facilities are not permitted, unless approved in writing by the Director.

- IV. Easements – Permanent on-site easements for the detention and conveyance of storm water, including easements for access to structures and facilities, shall be dedicated to the City at no additional cost.
- V. Permits – A permit for projects, which includes detention facilities, may be granted by the Director only after Final Construction Plans have been approved and all easements have been dedicated, accepted, and recorded, and required maintenance assurances and bonds have been executed.

SECTION 4

EROSION AND SEDIMENT CONTROL REGULATIONS

The purpose of this Section is to promote and protect the public interest by regulating land disturbance, land fill, and soil storage in connection with the clearing and grading of land for construction related or other purposes. It is also the purpose of this Article to encourage responsible development and minimize the cost to the development community as a result of the regulations in this Section.

This Article establishes administrative, implementation and enforcement procedures for the protection and enhancement of the water quality of storm water facilities by controlling erosion, sedimentation, and related environmental damage caused by construction-related or other activities.

Neither this Article, nor any administrative decision made under it, exempts the applicant or any other person from other requirements of this Article, state and federal laws, or from procuring other required permits or limits the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the applicant or any person arising from the activity regulated by this Article.

LAND DISTURBANCE PERMIT

Unless exempted by Section _____, no person may perform land disturbing activities, including clearing, grading, excavating, filling, storing or disposing of soil and earth materials without first obtaining a land disturbance permit from the City as set forth in this Article.

EXEMPTIONS

Persons performing land disturbance activities that meet any of the criteria below are not required to apply for a land disturbance permit pursuant to this Article:

Land disturbances less than One-Acre. Land disturbances, other than those set forth in exemptions _____ through _____ of this Subsection, of land less than one -acre in area; provided however, that persons performing work on such parcels, who are not otherwise exempt under exemptions _____ through _____ of this Subsection, must comply with the erosion and sediment control standards promulgated pursuant to Section _____, if the land remains unprotected for more than seven calendar days.

Land disturbance activities by city departments. The City is required to comply with the requirements of this Section.

Home Gardens. Home gardening operations, including plowing or tilling of land for the purposes of growing flowers and/or vegetables, but not in excess of One-Acre.

Work to correct or remedy emergencies. This includes situations that pose an immediate danger to life or property, or substantial flood or fire hazards.

Routine agricultural crop management practices.

LAND DISTURBANCE PERMIT APPLICATION

Any person requesting a land disturbance permit must submit an application to the City. The application shall be submitted on a form promulgated by the City and shall include the names, addresses, and telephone numbers of the developer/owner of the property, the contractors or subcontractors actually performing the land disturbing activity and their respective tasks, the engineer responsible for the preparation of the site map and grading plan, and the engineer responsible for preparation of the erosion and sediment control plan. In addition to the application form, the person shall submit the following items:

- I. A site map, and clearing and grading plan that is in compliance with Section _____, sealed by a professional engineer licensed in the State of Kansas.
- II. A storm drainage study in compliance with Section_____.
- III. An erosion and sediment control site plan that is in compliance with Section _____.
- IV. Work schedule in compliance with Section _____.
- V. Land disturbance permit fee.
- VI. Security for performance of work as required under Section_____.
- VII. Any supplementary materials related to the land disturbance as required by the City.

GRADING, EROSION AND SEDIMENT CONTROL SITE PLAN REQUIREMENTS

The applicant shall submit an Erosion and Sediment Control Site Plan. The Plan shall include the following:

- I. A description of how the plan will prevent/or minimize sediment from leaving the site.
- II. Estimated duration of the permit as defined in Section _____.
- III. Existing and proposed topography of the site taken at not more than a two-foot contour interval over the entire site.
- IV. Contours extend a minimum of 100 feet off-site or sufficient to show on/off-site drainage.
- V. Site's property lines, shown in true location with respect to the plan's topographic information.

- VI. Location and graphic representation of all existing and proposed natural and man-made drainage facilities.
- VII. Location, graphic representation and legend of soil types.
- VIII. Location and graphic representation of proposed excavations and fills, of on-site storage of soil and other earthen material and on-site disposal.
- IX. Location and legend of existing vegetation cover, the location and legend of vegetation cover to be left undisturbed.
- X. Quantity of soil or earthen materials in cubic yards to be excavated, filled, stored, or otherwise utilized on-site.
- XI. Proposed sequence of excavation, filling, and soil or earthen material storage and disposal.
- XII. List of the measures undertaken to retain sediment from the site, including, but not limited to, designs and specifications for berms, and sediment detention basins, and a schedule for maintenance and upkeep.
- XIII. A description of the surface runoff and erosion control measures to be implemented, including, but not limited to, types and method of applying mulches, location details and specifications for diverters, dikes and drains and a schedule for their maintenance and upkeep.
- XIV. A delineation and brief description of the vegetative measures to be used, including, but not limited to seeding methods, the type, location and extent of pre-existing undisturbed vegetation types and vegetation to remain and a schedule for maintenance and upkeep.
- XV. Alternative methods of stabilizing the site when either seeding is not to be performed in accordance with the schedule, or was and was not effective.
- XVI. Plans shall be prepared and sealed and dated by a profession engineer..

WORK SCHEDULE

The Applicant shall submit a work schedule of construction activities for the development where the land disturbance activity is proposed. The work schedule shall provide, at minimum, the following information:

- I. Proposed clearing and grading schedule, per Section_____
- II. Proposed schedule for installation of temporary and permanent erosion and sediment control measures.
- III. Proposed schedule for all construction activity.
- IV. Estimated duration of land disturbance permit as defined in Section _____hereof.

The applicant shall be allowed to modify the work schedule, under this section, in the event circumstances dictate the modification and after the applicant has obtained approval from the City.

REVIEW FOR COMPLIANCE

Review for compliance will begin once the information requested in Section _____ has been submitted.

Land disturbance permits may be issued for each phase of land disturbance of a specific site. When issued in phases the land disturbance permit shall be a separate permit for each phase.

If the Director finds that the documents comply with the requirements of this Section, the engineer who submitted the documents shall be advised in writing and may request a land disturbance permit in accordance with the requirements set forth in Section _____ of this Article.

If the Director finds that documents are not in compliance with the City's regulations and adopted standards, the City shall advise the engineer in writing, which elements of the submitted documents are not in compliance. When documents are determined to be in compliance, this determination does not imply that the City is guaranteeing specific outcomes or any responsibility for the documents submitted.

LAND DISTURBANCE PERMIT FEE

Before issuance of a land disturbance permit as defined in this Section, the applicant shall pay a fee to cover the cost of administration related to application, review and inspection services associated with the land disturbance permit. The fee for each permit shall be as set forth by the City Council from time to time by April 1, of each year.

COORDINATION WITH OTHER PERMITS

When a site is being developed, and a land disturbance permit is required in accordance with Section_____, no construction permits shall be issued to make improvements on that site until a land disturbance permit has been issued for the site. The City may simultaneously issue a land disturbance permit and a grading permit in accordance with a plan approved by Director.

DURATION OF PERMIT

The land disturbance permit shall be valid from the time of issuance until the site is stabilized and erosion and sediment control measures are no longer necessary and the permit is terminated as provided herein, or until the permit is otherwise suspended or revoked as provided in this Article. The site will be considered stabilized when perennial vegetation, pavement, buildings, or structures using permanent materials cover all areas that have been disturbed. To terminate the land disturbance permit, the applicant shall submit a request to terminate permit to the Director.

The City shall inspect the site and make a determination as to whether the permit can be terminated. The applicant will be notified in writing of the determination.

If the applicant sells the property before the termination of the land disturbance permit issued under this Article, the applicant shall assign the permit to the new owner.

If the applicant sells any portion of the property before the termination of the land disturbance permit issued under this Article, the applicant shall remain responsible for the requirements of the permit, for the portion of the property sold, until one of the following events occur:

- The new owner of the property obtains a land disturbance permit (if necessary).
- The new owner of the property obtains or is required to obtain a building permit.

SUSPENSION OR REVOCATION OF PERMIT

If normal routine enforcement activities, as defined in Section _____, fail to correct any non-compliance issue, the City shall follow the procedures outlined in this Section before any action is taken against the owner as provided under Section _____.

The City shall suspend the land disturbance permit and issue a written stop work order, and the applicant shall cease all work on the site, except work necessary to remedy the cause of the suspension, upon notification of such suspension when:

- (1) Applicant fails to submit reports timely and in accordance with Section _____; or
- (2) Inspection by the City reveals the site is not in substantial compliance with the erosion and sediment control plan; or
- (3) Applicant fails to comply with an order to bring the site into compliance with the permit within time limits imposed by the City; or
- (4) Applicant fails to pay required permit fee(s).

The City shall reinstate a suspended land disturbance permit upon the applicant's correction of the cause of the suspension. The City shall revoke the land disturbance permit and issue a stop work order if the applicant fails or refuses to cease work.

The City may not reinstate a revoked permit.

INSTALLATION OF CONTROL MEASURES

The owner shall notify the City that erosion and sediment control measures are installed in accordance with the erosion and sediment control plan and the City's adopted standards. The applicant shall not perform any land disturbance activities prior to approval from the City that erosion and sediment control measures are installed properly.

MAINTENANCE OF CONTROL MEASURES

The owner shall at all times maintain the erosion and sediment control measures in good order and in compliance with the erosion and sediment control plan for the site and with the City's adopted standards, for the duration of the permit as defined in Section ___hereof. In determining the owner's compliance with the erosion and sediment control plan for the site, the City shall take into consideration any results the applicant has obtained through sampling.

REMOVAL OF CONTROL MEASURES

The applicant shall receive the City's approval before any structural erosion and sediment control measure identified on the plans is removed or made ineffective. Removal of erosion and sediment control measures must be performed in the manner described in the erosion and sediment control plan and in accordance with the City's adopted standards. When determining whether an erosion and sediment control measures may be removed or made ineffective, the City shall take into consideration testing results furnished by the applicant.

INSPECTIONS GENERALY

It shall be the duty of the land disturbance permit holder to install, routinely inspect, and maintain effective erosion and sediment control measures as specified in the permit holder's approved erosion control plan. The applicant shall inspect the land disturbance site at least every month or more frequently if required on the plan, and within twenty-four hours following each rainfall event of 1/2" or more within any twenty-four hour period.

If it is found that required erosion and sedimentation control measures have not been installed properly, the City may refuse any inspection requests for work requiring inspections until such time as the site complies with the requirements of this Article. If it is found that the installed erosion and sediment control measures are ineffective or are not being maintained properly, the City shall give notice to the permit holder. Subsequent inspections may be refused if the erosion and siltation control measures are ineffective, or not being maintained.

EROSION AND SEDIMENT CONTROL DESIGN STANDARDS

Erosion and Sediment Control Design- Unless otherwise provided by the Director, the latest approved edition of the Standard Specifications and Design Criteria, Division II, Section 2100, _____Specifications, adopted _____, and Section 5100, _____, of the Standard Specifications and Design Criteria, adopted _____, prepared by the Kansas City Metropolitan Chapter American Public Works Association, or the latest edition as amended, which is by reference made a part hereof as though incorporated into this Article, shall govern the design and construction of storm sewer systems within the City except as otherwise noted herein.

The Director shall adopt and maintain erosion and sediment control design criteria and performance standards and specifications to assist in the administration of the land disturbance program. The erosion and sediment

control design criteria and specifications shall be based on, but not limited to the following principles:

- I. Fitting the development to existing site conditions.
- II. Minimizing the extent and duration of exposure.
- III. Protecting areas to be disturbed from storm water runoff.
- IV. Stabilizing disturbed areas.
- V. Keeping runoff velocities low.
- VI. Retaining sediment on the site.
- VII. Inspecting and maintaining control measures.
- VIII. Containing performance measures and outcomes.

The property owner and/or applicant may request that differing standards applied and this request shall be granted if, in the opinion of the Director, these different standards will provide the same, or better protection as that provided by the City's standards.

Tree removal

No trees, as defined by Section _____, shall be removed without first obtaining approval of a tree protection and replacement plan and a tree removal permit pursuant to this chapter.

Development plans may be required to be modified or changed when necessary to preserve individual trees.

SECTION 5

ENFORCEMENT

Submissions from the General Public

Members of the General Public may submit information pertaining to this Article to the Director. The Director will consider these submissions as they pertain to the implementation and enforcement of this Article and will provide written or verbal response to the person submitting the information.

Enforcement Personnel Authorized

The following personnel employed by the City shall have the power to issue notices of violations and implement other enforcement actions under this Article as provided by _____:

- (1) Authorized personnel under the supervision of the Director.
- (2) Inspectors under the supervision of the Director of Neighborhood Resources.
- (3) Health officers that are authorized representatives of the Director of the Municipal – Johnson County Health Department.

Right of Entry and Sampling

Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises, any condition that constitutes a violation of this

Article, the Director shall have the right to enter the premises at any reasonable time to determine if the person is complying with all requirements of this Article. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.

The Director shall have the right to set up on the property of any discharger to the storm drainage system such devices that are necessary to conduct sampling of discharges.

Notice of Violation

Whenever an authorized enforcement person determines that a person has violation a provision of this Article, or failed to meet a requirement of this Article, the enforcement person will order compliance by written notice of violation to the responsible person.

The Notice of Violation shall identify:

- (1) The name of the responsible person
- (2) The date and location of the violation
- (3) A description of the violation
- (4) Actions that must be taken by the responsible person to remedy the violation
- (5) The deadline within which the required actions must be completed
- (6) Enforcement actions that may be taken by the City

Any person receiving a notice of violation may appeal the notice to the Director. The Director must receive the written appeal within 15 (fifteen) days of the date of the notice. The Director will affirm, modify or rescind the notice in writing, within 15 days of the date of the appeal.

Any person aggrieved by the decision of the Director may appeal the decision to the City Council by submitting a written appeal to the City within 15 (fifteen) days of the date of the Director's written decision. A hearing on the appeal will be scheduled before the City Council. The decision of the City Council shall be final.

Action without Prior Notice

Any person who violates a prohibition or fails to meet a requirement of this Article will be subject, without prior notice, to one or more of the enforcement actions identified in _____, when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or threatened discharge, which presents or may present imminent danger to the environment to the health or welfare of persons or to the storm drainage system.

Enforcement Actions

Any person who fails to comply with or appeal a Notice of Violation or fails to comply with an appeal decision of the City Council will be subject to one or more of the following enforcement actions:

Stop Work Order. The Director may issue a stop work order to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to City departments whose decisions may affect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site. A notice of violation shall accompany the stop work order, and shall define the compliance requirements.

Abatement of an Illicit Connection. The Director may order City representatives to terminate an illicit connection to the municipal separate storm sewer System (MS4). Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner if allowed by applicable law.

Abatement of a Violation on Private Property. When a property owner is not available, not able or not willing to correct a violation, the Director may order City representatives to enter private property to take measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow City representatives to enter upon the premises for these purposes. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.

Recovery of Costs. Within 30 days after abatement by City representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the City Council. The written protest must be received by the City _____ Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Council. The decision of the City Council shall be final. If the amount due is not paid within the protest period or within 10 (ten) days of the decision of the City Council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

Termination of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the Director shall have the authority to order the disconnection of City water, sanitary sewer and/or sanitation services, upon a finding by the Director that the disconnection of utility services will remove a violation of this Article that poses a public health hazard or environmental hazard.

Performance Bonds. Where necessary for the reasonable implementation of this Article, the Director may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Article. 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 to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the City Council. The written protest must be received by the City Manager's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Council. The decision of the City Council shall be final.

Criminal Penalties

The violation of any provision of this Article shall be deemed a municipal offense. Any person violating this Article shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of \$250.00 to a maximum of \$1,500.00 or the amount imposed by State, or Federal agencies. Each separate day on which a violation is committed or continues shall constitute a separate offense. The municipal court judge shall have no authority to suspend all or a portion of the minimum fine.

Other Legal Action

Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this Article, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in the District Court of Johnson County. The City Attorney may seek a preliminary or permanent injunction or both, which restrains or compels the activities on the part of the discharger.

PERMITS

Upon approval of the Final Construction Plans and Erosion and Sediment Control Plan and acceptance of the applicant's assurances of performance and maintenance as provided in these regulations, the Director shall issue a permit for construction and the City shall issue a Land Disturbance Permit.

APPEALS

Any person aggrieved by a decision of the Director or City in the enforcement of this Article shall have the right to appeal any such order, requirement, decision, or determination in accordance with the following procedures:

The aggrieved party may appeal the action of the Director or City to the Board of Zoning and Appeals by filing written notice within ten calendar days of the action.

The Board of Zoning and Appeals shall consider any information offered by the aggrieved person bearing on the dispute and may recommend an appropriate course of action; either reversal, modification, or confirmation. The Director or City shall be present at the hearing as appropriate, shall act on the recommendation in a manner consistent with his responsibilities under these regulations.

Any person aggrieved by any final decision of the Director or City following review by the Board of Zoning and Appeals may seek review by a court of competent jurisdiction in the manner provided by the laws of the State of Kansas.

DAMAGING OR ALTERING STORM WATER MANAGEMENT FACILITIES

No person, shall maliciously, willfully or negligently break, damage, destroy, deface, alter or tamper with any structure, appurtenance or facility that is a part of the municipal separate storm water system or an approved storm water management plan.

No person, shall cause or permit the curbs and gutters in the city to be filled with any material, that tends to restrict or divert the flow of water therein except that the Director may, upon request, grant written permission for an exception, if the exception is consistent with the spirit and intent of this Article. Any violation of this section shall be subject to the provisions of Section___ of this Article.

SECTION 6

SEVERABILITY.

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

This Ordinance shall be included in the Code of the City of _____, Kansas and shall be effective on _____, upon its passage and publication once in the official city paper.

Adopted by the Governing Body of the City of _____, Kansas, this _____ day of _____, 2002.

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor and publication according to law. PASSED by the Council this _____ day of _____, 2002.

Mayor

ATTEST:

City Clerk,

(SEAL)
APPROVED AS TO FORM:

City Attorney