

(Published in the Topeka Metro News December 27, 2010)

ORDINANCE NO. 19496

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending, repealing, renumbering and creating certain sections of the Code of the City of Topeka concerning water pollution control.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOPEKA:

CHAPTER 13.15 WATER POLLUTION CONTROL

Article I. Generally

Section 1. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.15.010 which said section reads as follows:

Definitions.

The following terms, phrases and abbreviations when used in chapters 13.15, 13.20, 13.25 and 13.30 shall have the meanings ascribed to them in this section unless specifically stated otherwise:

“Appraisal district” means the office of the county appraiser.

“Approval authority” means the Environmental Protection Agency (EPA) or if the pretreatment program has been formally delegated to the state Department of Health and Environment (KDHE), it shall mean the Director of the Division of Environment of KDHE.

“Authorized representative” means:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;

29 (3) A duly authorized representative of the individual designated
30 above, if such representative is responsible for the overall operation of the
31 facilities from which the indirect discharge originates; or

32 (4) A duly authorized representative responsible for the operation of a
33 facility owned and/or operated by the state, federal or local government.

34 “Beneficial uses” means uses of the waters of the state that may be protected
35 against quality degradation which include, but are not necessarily limited to, domestic,
36 municipal, agricultural and industrial supply, power generation, recreation, aesthetic
37 enjoyment, navigation and the preservation and enhancement of fish, wildlife and other
38 aquatic resources or reserves, and other uses, both tangible or intangible, as specified
39 by federal or state law.

40 “Best Management Practices (BMPs)” means the schedules of activities,
41 practices, and maintenance procedures which prevent or reduce the discharge of
42 pollutants directly or indirectly to the MS4 and to the waters of the United States. BMPs
43 can be structural or nonstructural, and also include treatment facilities and
44 requirements, operating and maintenance procedures, and practices to control plant
45 and construction site runoff, spillage or leaks, sludge or waste disposal, or drainage
46 from raw material storage, and such other provisions as the Superintendent determines
47 appropriate for the control of pollutants.

48 “Biochemical Oxygen Demand (BOD)” means the quantity of oxygen utilized in
49 the biochemical oxidation of organic matter under standard laboratory procedures in five
50 (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

51 "Bonds" means revenue bonds, general obligation bonds, notes, loans or any
52 other debt obligations issued or incurred to finance the costs of construction.

53 "City" means the City of Topeka, Kansas, represented by the Superintendent.

54 "Clean Water Act" or "the Act" means the federal Water Pollution Control Act (33
55 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

56 "Clearing" means any activity that removes the vegetative surface cover.

57 "Composite sample" means a combination of individual samples of water or
58 wastewater taken at selected intervals (generally hourly or some similar specified
59 period), to minimize the effect of the variability of the individual sample. Individual
60 samples may have equal volume or may be roughly proportional to the flow at time of
61 sampling.

62 "Construction activity" means activities subject to NPDES Construction Permits.
63 These include construction projects resulting in land disturbance of 1 acre or more.
64 Such activities include but are not limited to clearing and grubbing, grading, excavating,
65 and demolition.

66 "Contamination" means an impairment of the quality of the waters of the state by
67 waste to a degree which creates a hazard to the public health. "Contamination" shall
68 include any equivalent effect resulting from the disposal of wastewater, whether or not
69 waters of the state are affected.

70 "Cooling water" means the water discharged from any use such as air
71 conditioning, cooling or refrigeration or to which the only pollutant added is heat.

72 “Costs of construction” means costs reasonably incurred in connection with
73 providing capital improvements to the system or any portion thereof, including but not
74 limited to the costs of:

75 (1) Acquisition of all property, real or personal, and all interests in
76 connection therewith including all right-of-way and easements therefor;

77 (2) Physical construction, installation and testing, including the costs of
78 labor, services, materials, supplies and utility services used in connection
79 therewith;

80 (3) Architectural, engineering, legal and other professional services;

81 (4) Insurance premiums taken out and maintained during construction,
82 to the extent not paid for by a contractor for construction and installations;

83 (5) Any taxes or other charges which become due during construction;

84 (6) Expenses incurred by the city or on its behalf with its approval in
85 seeking to enforce any remedy against any contractor or subcontractor in respect
86 of any default under a contract relating to construction;

87 (7) Principal of and interest of any bonds, temporary notes or loans;
88 and

89 (8) Miscellaneous expenses incidental thereto.

90 “Debt service” means, with respect to any particular fiscal year and any particular
91 series of bonds, an amount equal to the sum of all interest payable on such bonds
92 during such fiscal year, plus any principal installments of such bonds during such fiscal
93 year.

94 “Department” means the public works department of the city.

95 “Developed property” means real property other than undisturbed property.

96 “Direct discharge” means the discharge of treated or untreated wastewater
97 directly to the waters of the state.

98 “Director” means the director of the department of public works or his or her
99 designee.

100 “Discharge” means the addition or introduction of any pollutant, stormwater, or
101 any other substance into the municipal separate storm sewer system (MS4) or into
102 waters of the United States.

103 “Documented waste strength” means the average concentration of the analytes
104 BOD, TSS, and TKN of a set of 12 samples collected, at random, in a two year period.
105 Twelve (12) samples for Liquid Waste Class 2 and twelve (12) samples for Liquid Waste
106 Class 3 will be tested every two (2) years and the results will be averaged to determine
107 the waste strength for billing purposes.

108 “Domestic septage” means the liquid or solid material removed from a septic
109 tank, cesspool, portable toilet, type III marine sanitation device, or similar system that
110 receives only liquid domestic waste (Household, non-commercial, non-industrial
111 sewage) as defined by the Federal Part 503 Regulation.

112 “Domestic sewage” means sewage originating from residential uses or activities
113 including, but not limited to, kitchen, bathroom, laundry sources, dishwashing, toilets,
114 baths, showers, sinks, garbage units and food preparation.

115 “Drainage way” means any channel that conveys surface runoff throughout the
116 site.

117 “Drainage fee” means a fee authorized by state law and the ordinance which is
118 established to pay operations and maintenance, extension and replacement and debt
119 service.

120 “Dwelling unit” means a single unit or apartment providing complete, independent
121 living facilities for one or more persons, including permanent provisions for living,
122 sleeping, eating, cooking and sanitation.

123 “Environmental Protection Agency (EPA)” means the U.S. Environmental
124 Protection Agency, or where appropriate, the term may also be used as a designation
125 for the administrator or other duly authorized official of such agency.

126 “Equivalent residential unit (ERU)” means the average impervious area of
127 residential developed property per dwelling unit located within the city and as
128 established by ordinance as provided in this chapter.

129 “Erosion and Sediment Control Plan” means a document which describes the
130 BMPs and activities to be implemented by a person or business to identify sources of
131 pollution or contamination at a site and the actions to eliminate or reduce pollutant
132 discharges to stormwater, stormwater conveyance systems and/or receiving waters to
133 the maximum extent practicable.

134 “ERU rate” means a drainage fee charged on each ERU as established by
135 council ordinance as provided in Chapter 13.05.

136 “Exempt property” means public rights-of-way, public streets, alleys, sidewalks
137 and drainage structures.

138 “Final stabilization” means the condition when all soil disturbing activities at a site
139 have been completed, and a uniform, perennial vegetative cover with a density of 70

percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures such as the use of riprap, gabions, or geotextiles have been employed.

“Fiscal year” means a 12-month period commencing on January 1 of any year.

“Foundation drain” means a perforated pipe or a pipe with open joints or porous material installed either outside exterior foundation walls or inside exterior foundation walls or beneath a basement floor for the purpose of preventing the buildup of water pressure and water capillarity beneath the floor.

“Grab sample” means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

“Hazardous substance” means any substance listed in Table 302.4 of 40 C.F.R. Part 302.

“Hazardous waste” means any substance identified or listed as a hazardous waste by the United States Environmental Protection Agency pursuant to 40 C.F.R. Part 261.

“Hazardous waste treatment, disposal, and recovery facility” means all land and physical structures, other appurtenances and improvements on the land used for the treatment, disposal, or recovery of hazardous waste.

“Holding tank waste” means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank truck.

161 “Illicit discharge” means any direct or indirect discharge to the MS4 or municipal
162 sanitary sewer system, except as specifically permitted under chapters 13.20, 13.25 or
163 13.30.

164 “Illicit connection” means any pipe, conduit, drain or other means of transmitting
165 any substance or waste into the MS4 or municipal sanitary sewer system which is not
166 specifically authorized under chapters 13.20, 13.25 and 13.30.

167 “Impervious area” means the number of square feet of hard surfaced areas which
168 either prevent or retard the entry of water into the soil mantle, as it entered under
169 natural conditions as undisturbed property, and/or causes water to run off the surface in
170 greater quantities or at an increased rate of flow from that present under natural
171 conditions as undisturbed property, including, but not limited to, roofs, roof extensions,
172 patios, porches, driveways, sidewalks, pavement, graveled areas and athletic courts.

173 “Indirect discharge” means the discharge or the introduction of nondomestic
174 pollutants from any source regulated under section 307(b) or (c) of the act (33 USC
175 1317), into the POTW (including holding tank waste discharged into the system).

176 “Industrial activity” means activities subject to NPDES Industrial Permits as
177 defined in 40 CFR, Section 122.26 (b)(14)

178 “Industrial user” means any user contributing industrial waste to the municipal
179 sewer system.

180 “Interference” means a discharge which, alone or in conjunction with a discharge
181 or discharges from other sources, both:

182 (1) Inhibits or disrupts the POTW, its treatment processes or
183 operations, or its sludge processes, use or disposal; and

(2) Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with statutory provisions and regulations or permits issued thereunder by the state or federal government.

"KDHE" means the Kansas Department of Health and Environment.

"Land disturbance activity" means any activity that changes the physical conditions of landform, vegetation or hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.

"Liquid waste" means waste which will not pass the paint filter test, is biologically compatible with the wastewater treatment process, and will not pass through or interfere with the wastewater treatment process. Liquid waste meeting the above criteria is further defined by the following categories:

"Class 1 Liquid Waste" means a Domestic septage which originates from storage devices (holding tanks) that are typically pumped at frequent intervals (less than every 30 days) as these devices are non-discharging, storage structures for sanitary waste which have no connection to a lateral field or discharge point. Class I Liquid Waste is biologically characterized as being only partially stabilized and having low TSS, BOD5, and TKN content.

"Class 2 Liquid Waste" means a Domestic septage which originates from treatment devices (septic tanks) that are typically pumped at long intervals (more

207 than every 30 days) and having a connection to a lateral field or discharge point.
208 Class 2 Liquid Waste is biologically characterized as being well stabilized and
209 having high TSS, BOD5, and TKN.

210 “Class 3 Liquid Waste” means a Domestic septage which originates from
211 storage devices (portable toilets, type III marine sanitation devices) that are
212 typically pumped at frequent intervals (less than every 30 days) as these devices
213 are non-discharging, storage structures for sanitary waste which have no
214 connection to a lateral field or discharge point. Class 3 Liquid Waste differs from
215 the other classes of septage as it is chemically stabilized when generated. This
216 Liquid Waste is typically characterized as having high TSS, BOD5, and TKN.

217 “Class 4 Liquid Waste” means a Liquid waste which is composed primarily
218 of fatty matter from animal or vegetable sources and originates from residential
219 or commercial grease interceptors. Class 4 Liquid Waste is typically
220 characterized as containing 2-5% FOG, 5-30% Solids and very high organic
221 content.

222 “Class 5 Liquid Waste” means a liquid waste not defined in the first four
223 categories above. This liquid waste includes liquid waste of industrial,
224 commercial, or other origin including, but are not limited to, landfill leachate,
225 wastewater residuals and tanning waste.

226 “Liquid waste hauler” means any person, persons, partnership or corporation
227 which transports liquid, nonhazardous waste .

228 “Mass emission rate” means the weight of material discharged to the sewer
229 system during a given time interval, which unless otherwise specified, is measured in
230 pounds per day of a particular constituent or combination of constituents.

231 “Municipal combined sewer” means a sewer owned and operated by the City or
232 other public agency which receives or carries the combination of surface runoff,
233 wastewater, sewage and/or industrial wastes to the POTW.

234 “Municipal sanitary sewer” means a sewer owned and operated by the City or
235 other public agency which carries wastewater, sewage and/or industrial wastes, either
236 directly or indirectly to a POTW and to which storm, surface and ground waters are not
237 intentionally admitted.

238 “Municipal sanitary sewer system” means sanitary sewers, pumping stations,
239 sewage treatment plants, main sewers, interceptor sewers, outfall sewers, and works
240 for the collection, transportation, pumping and treating of wastewater, sewage or
241 industrial waste owned an operated by the City.

242 “Municipal separate storm sewer system (MS4) or municipal stormwater system”
243 means a system of conveyances, including roads with drainage systems, municipal
244 streets, catch basins, curbs, gutters, ditches, man-made channels, natural channels or
245 streams, or storm drains maintained by the City and designed for collecting or
246 conveying stormwater, and which is not used for collecting or conveying sewage.

247 “National categorical pretreatment standard or pretreatment standard” means
248 any regulation which establishes or sets pollutant discharge limits promulgated by the
249 EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317), which applies
250 to a specific category of industrial users.

251 “National prohibitive discharge standard or prohibitive discharge standard”
252 means any regulation developed under the authority of section 307(b) of the Act.

253 “New source” means any building, structure, facility or installation from which
254 there is or may be a discharge of pollutants, the construction of which commenced after
255 the publication of proposed pretreatment standards under section 307(c) of the Act,
256 which will be applicable to such source if such standards are thereafter promulgated in
257 accordance with that section, provided that such building, structure, facility or
258 installation meets the criteria outlined by 40 CFR 403.3(k) of the general pretreatment
259 regulations.

260 “Nonhazardous waste” means waste not listed under 40 C.F.R. § 261.

261 “Nonhazardous liquid waste” means a waste not listed under 40 C.F.R. § 261.

262 “Nonresidential developed property” means developed property that is classified
263 by the county appraisal for the commercial industrial or other nonresidential uses

264 “Notice of Intent (NOI)” means the application supplied by KDHE to apply for a
265 permit to discharge stormwater from either a construction site or industrial site.

266 “Notice of Termination (NOT)” means the application supplied by KDHE
267 submitted by either the construction or industrial site permittee to either designate
268 completion of a project or the termination of permitted stormwater discharges from a
269 site.

270 “NPDES” means the National Pollutant Discharge Elimination System.

271 “NPDES industrial general permit for stormwater discharges associated with
272 industrial activity or NPDES industrial general permit” means the industrial general

273 permit including any amendments thereto issued by KDHE which regulates the
274 discharge of stormwater runoff from certain types of industrial activity.

275 “NPDES construction activity permit for discharges of runoff from construction
276 activities” means the NPDES permit issued to an individual or entity by KDHE for all
277 construction sites which disturb a cumulative total of one acre of land or greater.

278 “Owner or operator” means the party or parties that either individually or taken
279 together meet the following three criteria: 1) they own the facility; 2) they have
280 operational control over the facility; 3) they have the day-to-day operational control of
281 those activities at the facility necessary to ensure compliance.

282 “Pass through” means a discharge which exits the POTW into waters of the
283 United States in quantities or concentrations which alone or in conjunction with a
284 discharge or discharges from other sources is a cause of a violation of any requirement
285 of the POTW's NPDES permit (including an increase in the magnitude or duration of a
286 violation).

287 “Person” means any individual, partnership, copartnership, firm, company,
288 corporation, association, joint stock company, trust, estate, governmental entity or any
289 other legal entity or other legal representatives, agents or assignees.

290 “pH” means the negative logarithm of the reciprocal concentration of hydrogen
291 ions measured in grams per liter of solution.

292 “Pollutant” means anything which causes or contributes to pollution including, but
293 are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-
294 hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or
295 other discarded or abandoned objects, articles, and accumulations, so that same may

cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

“Pollution” means the human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

“Premises” means any building lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Pretreatment or treatment” means the reduction of the amount of pollutants, the removal of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sanitary sewer system. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means, except by dilution as prohibited by federal regulation.

“Pretreatment standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to industrial users.

“Private service line” means a pipe or enclosed conduit to convey waster or wastewater from the premises of a user to a public sanitary sewer.

318 “Publicly owned treatment works (POTW)” means a treatment works as defined
319 by section 212 of the Act (33 USC 1292), which is owned in this instance by the City,
320 including any sewers that convey wastewater to the POTW treatment plant, but does
321 not include pipes, sewers or other conveyances not connected to a facility providing
322 treatment and also includes any public sanitary sewer or public combined sewer that
323 convey wastewaters to the POTW from persons outside the City who are users of the
324 City's POTW.

325 “Qualified personnel” means a person who possesses the appropriate skills and
326 ability as demonstrated by sufficient education, training, experience, and/or, when
327 applicable, any required certification or licensing to perform a specific activity in a timely
328 and complete manner consistent with the applicable regulatory requirements and
329 generally-accepted industry standards for such activity.

330 “Release” means any spilling, leaking, pumping, pouring, emitting, emptying,
331 discharging, injecting, escaping, leaching, dumping, or disposing into the municipal
332 sanitary system or MS4 or the waters of the United States.

333 “Residential developed property” means developed property which is classified
334 by the county appraisal, as amended or supplemented, as used or usable for residential
335 purposes upon which there is located at least one dwelling unit.

336 “Revenues” means all rates, fees, assessments, rentals or other charges or other
337 income received by the utility, in connection with the management and operation of the
338 system, including amounts received from the investment or deposit of moneys in any
339 fund or account and any amounts contributed by the city, all as calculated in
340 accordance with sound accounting practice.

341 “System extension and replacement” means extensions, additions and capital
342 improvements to, or the renewal and replacement of, capital assets of, or purchasing
343 and installing new equipment for, the sanitary sewer system or MS4, or land acquisition
344 for the systems, and any costs related thereto, or paying extraordinary maintenance and
345 repair, including the costs of construction, or any other expenses which are not costs of
346 operation and maintenance or debt service.

347 “Significant industrial user” means a user of the municipal sanitary sewer system
348 that meets one or more of the following criteria:

349 (1) Users whose average wastewater strength cannot be established
350 because of seasonal or other variations and/or operations;

351 (2) Users whose wastewater strength exceeds the normal range of
352 wastewater strength;

353 (3) Users using an unmetered source of water;

354 (4) Users who fall under those guidelines set forth for federal
355 categorical industries;

356 (5) Users discharging an amount greater than twenty-five thousand
357 (25,000) gallons per day of process wastewater for any day during the preceding
358 twelve (12) month period;

359 (6) Users whose average discharge, measured either by volume of
360 flow, weight of suspended solids, biochemical oxygen demand, or chemical
361 oxygen demand, exceeds two percent (2%) of the average loading on the
362 applicable treatment facility; and

363 (7) Other users determined by the Superintendent to require special
364 regulation or source control.

365 “Silver associated process” means any process, manufacturing or service related
366 business which falls within any of the following standard industrial classifications: 2711,
367 2721, 2731, 2732, 2741, 2751 to 2754, and 8062 under the most recent addition of the
368 standard industrial classification manual issued by the EOP, OMB.

369 “Slug” means any discharge of wastewater, sewage or industrial waste which, in
370 concentration of any given constituent or in quantity of flow, exceeds for any fifteen (15)
371 minute period more than five (5) times its average twenty-four (24) hour concentration
372 or flows during normal operation.

373 “Standard industrial classification or SIC” means a classification pursuant to the
374 most recent edition of the Standard Industrial Classification Manual issued by the
375 Executive Office of the President, Office of Management and Budget.

376 “State” means the State of Kansas.

377 “Stormwater” means any water flow occurring during or following any form of
378 natural precipitation (i.e. rain, snow, or ice) and any surface runoff or drainage resulting
379 therefrom.

380 “Stormwater discharge associated with industrial activity” means the discharge
381 from any system which is used for collecting and conveying stormwater and which is
382 directly related to manufacturing, processing, or raw materials storage areas at an
383 industrial plant which is within one of the categories of facilities listed in 40 C.F.R. Part
384 122.26(b)(14), and which is not excluded from the United States Environmental
385 Protection Agency's definition of the same term.

386 “Stormwater Pollution Prevention Plan (SWPPP)” means a document which
387 describes the BMP and activities to be implemented by a person or business to identify
388 sources of pollution or contamination at a site and the actions to eliminate or reduce
389 pollutant discharges to stormwater, stormwater conveyance systems and/or receiving
390 waters to the maximum extent practicable, prepared under the supervision of a
391 engineer, geologist, architect, landscape architect or a certified professional in erosion
392 and sediment control.

393 “Stormwater utility or utility” means the enterprise fund utility established in
394 Chapter 13.25 to operate, maintain and improve the MS4 and for such other purposes
395 as stated.

396 “Superintendent” means the individual responsible for the operation and
397 management of the city water pollution control operation of the city public works
398 department, or his or her designee.

399 Total suspended solids means solids that either float on the surface of or are in
400 suspension with water, sewage or other liquids; and which are removable by laboratory
401 filtering.

402 “Toxic pollutant” means any pollutant or combination of pollutants listed as toxic
403 in regulations promulgated by the administrator of the Environmental Protection Agency
404 under the provision of section 307(a)(1) of the act.

405 “Undisturbed property” means real property which has not been altered from its
406 natural state by dredging, filling, removal of trees and vegetation or other activities
407 which have disturbed or altered the topography or soils on the property.

408 “Unpolluted water” means water to which no pollutant has been added, either
409 intentionally or accidentally, which would render such water unacceptable for disposal to
410 storm or natural drainages or directly to surface waters.

411 “User” means any person that discharges, directly or indirectly, causes or permits
412 the discharge of wastewater into the municipal sanitary sewer system.

413 “Waste” means substances, whether liquid or solid, associated with human
414 habitation or of human origin or from any producing, manufacturing or processing
415 operation of whatever nature, whether treated or untreated, discharged into or permitted
416 to enter a municipal sanitary sewer system.

417 “Wastewater” means waste and water, whether treated or untreated, discharged
418 into or permitted to enter a municipal sanitary sewer system.

419 “Water quality standard” means the criteria set by the Kansas Department of
420 Health and Environment for individual pollutants based on different water uses within
421 the State.

422 “Waters of the state” means any water, surface or underground, within the
423 boundaries of the State.

424 “Waters of the United States” means Surface watercourses and water bodies as
425 defined at 40 CFR’ 122.2.

426 Section 2. That section 14.80.010, Definitions, of the Code of the City of
427 Topeka, Kansas, is hereby repealed.

428 **~~14.80.010 Definitions.~~**

429 ~~The following words, terms and phrases, when used in this chapter, shall have~~
430 ~~the meanings ascribed to them in this section, except where the context clearly~~
431 ~~indicates a different meaning:~~

432 ~~“Act” or “the Act” means the Federal Water Pollution Control Act, also known as~~
433 ~~the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.~~

434 ~~“Approval authority” means the Environmental Protection Agency (EPA) or, if the~~
435 ~~pretreatment program has been formally delegated to the state Department of Health~~
436 ~~and Environment (KDHE), it shall mean the Director of the Division of Environment of~~
437 ~~KDHE.~~

438 ~~“Authorized representative” means:~~

439 ~~(1) A principal executive officer of at least the level of vice-president, if the~~
440 ~~industrial user is a corporation;~~

441 ~~(2) A general partner or proprietor, if the industrial user is a partnership or~~
442 ~~proprietorship, respectively;~~

443 ~~(3) A duly authorized representative of the individual designated above, if such~~
444 ~~representative is responsible for the overall operation of the facilities from which the~~
445 ~~indirect discharge originates; or~~

446 ~~(4) A duly authorized representative responsible for the operation of a facility~~
447 ~~owned and/or operated by the state, federal or local government.~~

448 ~~“Beneficial uses” means uses of the waters of the state that may be protected~~
449 ~~against quality degradation which include, but are not necessarily limited to, domestic,~~
450 ~~municipal, agricultural and industrial supply, power generation, recreation, aesthetic~~
451 ~~enjoyment, navigation and the preservation and enhancement of fish, wildlife and other~~

452 ~~aquatic resources or reserves, and other uses, both tangible or intangible, as specified~~
453 ~~by federal or state law.~~

454 ~~“BOD” or “BOD (denoting biochemical oxygen demand)” means the quantity of~~
455 ~~oxygen utilized in the biochemical oxidation of organic matter under standard laboratory~~
456 ~~procedures in five days at 20 degrees Celsius, expressed in milligrams per liter.~~

457 ~~“Building sewer” means a sewer conveying wastewater from the premises of a~~
458 ~~user to a community sewer.~~

459 ~~“City” means the city of Topeka, Kansas, for the purpose of administering this~~
460 ~~chapter represented by the Superintendent of the water pollution control division.~~

461 ~~“Combined sewer” means a sewer receiving the combination of surface runoff,~~
462 ~~wastewater, sewage and/or industrial wastes.~~

463 ~~“Community sewer” means a sewer owned and operated by the city or other~~
464 ~~public agency, tributary to a treatment facility operated by a public agency.~~

465 ~~“Composite sample” means a combination of individual samples of water or~~
466 ~~wastewater taken at selected intervals (generally hourly or some similar specified~~
467 ~~period), to minimize the effect of the variability of the individual sample. Individual~~
468 ~~samples may have equal volume or may be roughly proportional to the flow at time of~~
469 ~~sampling.~~

470 ~~“Contamination” means an impairment of the quality of the waters of the state by~~
471 ~~waste to a degree which creates a hazard to the public health. “Contamination” shall~~
472 ~~include any equivalent effect resulting from the disposal of wastewater, whether or not~~
473 ~~waters of the state are affected.~~

~~“Cooling water” means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.~~

~~“Department” means the public works department of the city.~~

~~“Direct discharge” means the discharge of treated or untreated wastewater directly to the waters of the state.~~

~~“Division” means the water pollution control division of the city of Topeka public works department.~~

~~“Environmental Protection Agency” or “EPA” means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.~~

~~“Foundation drain” means a perforated pipe or a pipe with open joints or porous material installed either outside exterior foundation walls or inside exterior foundation walls or beneath a basement floor for the purpose of preventing the buildup of water pressure and water capillarity beneath the floor.~~

~~“Grab sample” means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.~~

~~“Grease generator” means a business or other commercial enterprise which creates or otherwise discharges grease into the municipal sewer system.~~

~~“Hazardous waste” means a hazardous waste as defined within the Code of Federal Regulations (40 CFR 261.3).~~

~~“Holding tank waste” means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.~~

~~“Indirect discharge” means the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. Section 1317), into the POTW (including holding tank waste discharged into the system).~~

~~“Industrial user” means any user contributing industrial waste to the municipal sewer system.~~

~~“Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:~~

~~(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and~~

~~(2) Is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with statutory provisions and regulations or permits issued thereunder by the state or federal government.~~

~~“Mass emission rate” means the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the “mass emission rate” means pounds per day of a particular constituent or combination of constituents.~~

~~“Municipal sewer system” means sanitary sewers, pumping stations, sewage treatment plants, main sewers, interceptor sewers, outfall sewers, and works for the collection, transportation, pumping and treating of wastewater, sewage or industrial waste thereto, necessary in the maintenance and operation of the same.~~

~~“National categorical pretreatment standard” or “pretreatment standard” means any regulation containing pollutant discharge limits promulgated by the EPA in~~

520 ~~accordance with Section 307(b) and (c) of the Act (33 U.S.C. Section 1317), which~~
521 ~~applies to a specific category of industrial users.~~

522 ~~“National pollution discharge elimination system permit” or “NPDES permit”~~
523 ~~means a discharge permit issued by the approval authority pursuant to Section 402 of~~
524 ~~the Act (33 U.S.C. Section 1342).~~

525 ~~“National prohibitive discharge standard” or “prohibitive discharge standard”~~
526 ~~means any regulation developed under the authority of Section 307(b) of the Act.~~

527 ~~“New source” means any building, structure, facility or installation from which~~
528 ~~there is or may be a discharge of pollutants, the construction of which commenced after~~
529 ~~the publication of proposed pretreatment standards under Section 307(c) of the Act,~~
530 ~~which will be applicable to such source if such standards are thereafter promulgated in~~
531 ~~accordance with that section; provided, that such building, structure, facility or~~
532 ~~installation meets the criteria outlined by 40 CFR 403.3(k) of the general pretreatment~~
533 ~~regulations.~~

534 ~~“Pass-through” means a discharge which exits the POTW into waters of the~~
535 ~~United States in quantities or concentrations which alone or in conjunction with a~~
536 ~~discharge or discharges from other sources is a cause of a violation of any requirement~~
537 ~~of the POTW's NPDES permit (including an increase in the magnitude or duration of a~~
538 ~~violation).~~

539 ~~“Person” means any individual, partnership, copartnership, firm, company,~~
540 ~~corporation, association, joint stock company, trust, estate, governmental entity or any~~
541 ~~other legal entity or other legal representatives, agents or assignees.~~

~~“pH” means the negative logarithm of the reciprocal concentration of hydrogen ions measured in grams per liter of solution.~~

~~“Pollutant” means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological material, radioactive material, heat wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.~~

~~“Pollution” means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. “Pollution” may include contamination.~~

~~“Premises” means a parcel of real estate including any improvements thereon which is determined by the department to be a single user for the purpose of receiving, using and paying for service.~~

~~“Pretreatment” or “treatment” means the reduction of the amount of pollutants, the removal of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the municipal sewer system. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means, except by dilution as prohibited by federal regulation.~~

~~“Pretreatment standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which applies to industrial users.~~

~~“Publicly owned treatment works (POTW)” means a treatment works as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned in this instance by~~

the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purpose of this chapter, "POTW" also includes any sewers that convey wastewaters to the POTW from persons outside the city who are users of the city's POTW.

"Sanitary sewer" means a sewer which carries wastewater, sewage and/or industrial wastes, and to which storm, surface and ground waters are not intentionally admitted.

"Sewage" means a combination of the water-carried wastes from users together with such groundwaters, surface waters and stormwaters as may be present.

"Sewer" means a pipe or enclosed conduit through which sewage is transported to the POTW treatment plant.

"Significant industrial user" means:

(1) Users whose average wastewater strength cannot be established because of seasonal or other variations and/or operations;

(2) Users whose wastewater strength exceeds the normal range of wastewater strength;

(3) Users using an unmetered source of water;

(4) Users who fall under those guidelines set forth for federal categorical industries;

(5) Users discharging an amount greater than 25,000 gallons per day of process wastewater for any day during the preceding 12-month period;

~~(6) Users whose average discharge, measured either by volume of flow, weight of suspended solids, biochemical oxygen demand, or chemical oxygen demand, exceeds two percent of the average loading on the applicable treatment facility; and~~

~~(7) Other users determined by the Superintendent to require special regulation or source control.~~

~~“Significant noncompliance” or “SNC” means and refers to any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules and regulatory deadlines) and is an instance of noncompliance for which the industrial user is liable for enforcement, including penalties. Instances of SNC are industrial user violations which meet one or more of the following criteria:~~

~~(1) Violations of wastewater discharge limits:~~

~~(i) Chronic violations: Sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance).~~

~~(ii) Technical review criteria or “TRC” violations: Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period.~~

~~There are two groups of TRCs: BOD, TSS, fats, oil, and grease, where the TRC is 1.4; and group II for all other pollutants, where the TRC is 1.2.~~

~~(iii) Any other violation of an effluent limit (average or daily maximum) that the city believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.~~

~~(iv) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.~~

~~(2) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.~~

~~(3) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.~~

~~(4) Failure to accurately report noncompliance.~~

~~(5) Any other violation or group of violations that the city considers to be significant.~~

~~“Silver associated process” means any process, manufacturing or service-related business which falls within any of the following standard industrial classifications: 2711, 2721, 2731, 2732, 2741, 2751 to 2754, and 8062.~~

~~“Slug” means any discharge of wastewater, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times its average 24-hour concentration or flows during normal operation.~~

~~“Standard industrial classification” or “SIC” means a classification pursuant to the most recent edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.~~

~~“State” means the state of Kansas.~~

~~“Stormwater” means any water flow occurring during or following any form of natural precipitation and resulting therefrom.~~

~~“Stormwater collection system” shall include all piping, channels, ditches, streams, or any other manmade or natural structure that conveys stormwater runoff.~~

~~“Superintendent” means the Superintendent of the city water pollution control division of the city public works department, or designated representative.~~

~~“Total suspended solids” means solids that either float on the surface of or are in suspension with water, sewage or other liquids; and which are removable by laboratory filtering.~~

~~“Toxic pollutant” means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of Section 307(a)(1) of the Act.~~

~~“Unpolluted water” means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable for disposal to storm or natural drainages or directly to surface waters.~~

~~“User” means any person that discharges, directly or indirectly, causes or permits the discharge of wastewater into a community sewer.~~

~~“Waste” means substances, whether liquid or solid, associated with human habitation or of human origin or from any producing, manufacturing or processing operation of whatever nature, whether treated or untreated, discharged into or permitted to enter a community sewer.~~

~~“Wastewater” means waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.~~

~~“Waters of the state” means any water, surface or underground, within the boundaries of the state.~~

Section 3. That section 14.80.020, Abbreviations, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Abbreviations.~~

~~As used in this chapter, the following abbreviations shall have the meanings designated in this section:~~

~~“BOD” means biochemical oxygen demand.~~

~~“CFR” means the Code of Federal Regulations, 1988.~~

~~“EPA” means the Environmental Protection Agency.~~

~~“KDHE” means the state Department of Health and Environment.~~

~~“l” means liter.~~

~~“mg” means milligram.~~

~~“mg/l” means milligrams per liter.~~

~~“NPDES” means the national pollutant discharge elimination system.~~

~~“POTW” means the publicly owned treatment works.~~

~~“SIC” means standard industrial classification.~~

~~“TSS” means total suspended solids.~~

Section 4. That section 14.80.670, Definitions, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Definitions.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~“Documented waste strength” means the average concentration of the analytes BOD, TSS, and TKN of a set of 12 samples collected, at random, in a two-year period. Twelve samples for liquid waste class 2 and 12 samples for liquid waste class 3 will be tested every two years and the results will be averaged to determine the waste strength for billing purposes.~~

~~“Domestic septage” means the liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar system that receives only liquid domestic waste (household, noncommercial, nonindustrial sewage) as defined by the Federal Part 503 regulation.~~

~~“Liquid waste” means waste which will not pass the paint filter test, is biologically compatible with the wastewater treatment process, and will not pass through or interfere with the wastewater treatment process. Liquid waste meeting the above criteria is further defined by the following categories:~~

~~“Class 1 liquid waste” means a domestic septage which originates from storage devices (holding tanks) that are typically pumped at frequent intervals (less than every 30 days) as these devices are nondischarging, storage structures for sanitary waste which have no connection to a lateral field or discharge point. Class 1 liquid waste is biologically characterized as being only partially stabilized and having low TSS, BOD₅, and TKN content.~~

~~“Class 2 liquid waste” means a domestic septage which originates from treatment devices (septic tanks) that are typically pumped at long intervals (more than every 30 days) and having a connection to a lateral field or discharge point. Class 2 liquid waste is biologically characterized as being well stabilized and having high TSS, BOD5, and TKN.~~

~~“Class 3 liquid waste” means a domestic septage which originates from storage devices (portable toilets, Type III marine sanitation devices) that are typically pumped at frequent intervals (less than every 30 days) as these devices are nondischarging, storage structures for sanitary waste which have no connection to a lateral field or discharge point. Class 3 liquid waste differs from the other classes of septage as it is chemically stabilized when generated. This liquid waste is typically characterized as having high TSS, BOD5, and TKN.~~

~~“Class 4 liquid waste” means a liquid waste which is composed primarily of fatty matter from animal or vegetable sources and originates from residential or commercial grease interceptors. Class 4 liquid waste is typically characterized as containing two to five percent FOG, five to 30 percent solids and very high organic content.~~

~~“Class 5 liquid waste” means a liquid waste not defined in the first four categories above. This liquid waste includes liquid waste of industrial, commercial, or other origin including, but not limited to, landfill leachate, wastewater residuals and tanning waste.~~

~~“Liquid waste hauler” means any person, persons, partnership or corporation which transports liquid, nonhazardous waste.~~

~~“Nonhazardous liquid waste” means a waste not listed under 40 CFR 261.~~

~~“Nonhazardous waste” means waste not listed under 40 CFR 261.~~

Section 5. That section 14.85.030, Definitions, of the Code of the City of Topeka, Kansas, is hereby repealed.

Definitions.

~~For the purpose of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.~~

~~"Appraisal district" means the office of the county appraiser.~~

~~"Bonds" means revenue bonds, general obligation bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.~~

~~"Costs of construction" means costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to the costs of:~~

~~(1) Acquisition of all property, real or personal, and all interests in connection therewith including all right-of-way and easements therefor;~~

~~(2) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith;~~

~~(3) Architectural, engineering, legal and other professional services;~~

~~(4) Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installations;~~

~~(5) Any taxes or other charges which become due during construction;~~

~~(6) Expenses incurred by the city or on its behalf with its approval in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to construction;~~

~~(7) Principal of and interest of any bonds; and~~

~~(8) Miscellaneous expenses incidental thereto.~~

~~“Debt service” means, with respect to any particular fiscal year and any particular series of bonds, an amount equal to the sum of all interest payable on such bonds during such fiscal year, plus any principal installments of such bonds during such fiscal year.~~

~~“Developed property” means real property other than undisturbed property.~~

~~“Director” means the director of the department of public works or his or her designee.~~

~~“Drainage fee” means a fee authorized by state law and the ordinance which is established to pay operations and maintenance, extension and replacement and debt service.~~

~~“Dwelling unit” means a single unit or apartment providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

~~“Equivalent residential unit” or “ERU” means the average impervious area of residential developed property per dwelling unit located within the city and as established by ordinance as provided in this chapter.~~

~~“ERU rate” means a drainage fee charged on each ERU as established by council ordinance as provided in this chapter.~~

768 ~~“Exempt property” means public rights-of-way, public streets, alleys, sidewalks~~
769 ~~and drainage structures.~~

770 ~~“Extension and replacement” means costs of extensions, additions and capital~~
771 ~~improvements to, or the renewal and replacement of, capital assets of, or purchasing~~
772 ~~and installing new equipment for, the system, or land acquisition for the system, and~~
773 ~~any costs related thereto, or paying extraordinary maintenance and repair, including the~~
774 ~~costs of construction, or any other expenses which are not costs of operation and~~
775 ~~maintenance or debt service.~~

776 ~~“Fiscal year” means a 12-month period commencing on January 1st of any year.~~

777 ~~“Impervious area” means the number of square feet of hard surfaced areas which~~
778 ~~either prevent or retard the entry of water into the soil mantle, as it entered under~~
779 ~~natural conditions as undisturbed property, and/or causes water to run off the surface in~~
780 ~~greater quantities or at an increased rate of flow from that present under natural~~
781 ~~conditions as undisturbed property, including, but not limited to, roofs, roof extensions,~~
782 ~~patios, porches, driveways, sidewalks, pavement, graveled areas and athletic courts.~~

783 ~~“Nonresidential developed property” means developed property that is classified~~
784 ~~by the appraisal district as state Land Use Codes 170 and higher, as amended or~~
785 ~~supplemented, excluding that portion of Land Use Code 199 to the extent used or~~
786 ~~usable for residential purposes.~~

787 ~~“Operating budget” means the annual utility operating budget adopted by the city~~
788 ~~for the current fiscal year.~~

789 ~~“Operation and maintenance” means the current expenses, paid or accrued, of~~
790 ~~operation, maintenance and current repair of the system, as calculated in accordance~~

791 ~~with sound accounting practices, and includes, without limiting the generality of the~~
792 ~~foregoing, insurance premiums, administrative expenses, labor, executive~~
793 ~~compensation, the cost of materials and supplies used for current operations, and~~
794 ~~charges for the accumulation of appropriate reserves for current expenses not annually~~
795 ~~incurred, but which are such as may reasonably be expected to be incurred in~~
796 ~~accordance with sound accounting practice.~~

797 ~~“Residential developed property” means developed property which is classified~~
798 ~~by the appraisal district as Land Use Codes 111 through 130 and 199, to the extent~~
799 ~~used or usable for residential purposes, using the state land use codes, as amended or~~
800 ~~supplemented, upon which there is located at least one dwelling unit.~~

801 ~~“Revenues” means all rates, fees, assessments, rentals or other charges or other~~
802 ~~income received by the utility, in connection with the management and operation of the~~
803 ~~system, including amounts received from the investment or deposit of moneys in any~~
804 ~~fund or account and any amounts contributed by the city, all as calculated in~~
805 ~~accordance with sound accounting practice.~~

806 ~~“Stormwater management system” or “system” means the existing stormwater~~
807 ~~management of the city and all improvements thereto which by this chapter constitute~~
808 ~~the property and responsibility of the utility, to be operated as an enterprise fund and,~~
809 ~~among other things, conserve water, control discharges necessitated by rainfall events,~~
810 ~~incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water~~
811 ~~to prevent or reduce flooding, over-drainage, environmental degradation and water~~
812 ~~pollution or otherwise affect the quality and quantity of discharges from such system.~~

~~“Stormwater utility” or “utility” means the enterprise fund utility created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.~~

~~“Undisturbed property” means real property which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.~~

Section 6. That section 14.90.020, Definitions, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Definitions.~~

~~The following terms, phrases and abbreviations when used in this chapter shall have the meanings ascribed to them in this section unless specifically stated otherwise.~~

~~“Best management practices (BMP)” means schedules of activities, prohibitions of practices, and maintenance procedures which prevent or reduce the pollution of the waters of the United States. “Best management practices” also include treatment requirements, operating procedures, and practices to control plant and construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.~~

~~“Discharge” means the addition or introduction of any pollutant, stormwater, or any other substance into the municipal separate storm sewer system (MS4) or into waters of the United States.~~

~~“Final stabilization” means the condition when all soil disturbing activities at a site have been completed, and a uniform, perennial vegetative cover with a density of 70 percent of the cover for unpaved areas and areas not covered by permanent structures~~

has been established, or equivalent permanent stabilization measures such as the use of riprap, gabions, or geotextiles have been employed.

~~“General NPDES permit for discharges of runoff from construction activities” means the NPDES permit issued by the Kansas Department of Health and Environment on or after April 1996 for all construction sites of five acres or greater.~~

~~“Hazardous substance” means any substance listed in Table 302.4 of 40 CFR Part 302.~~

~~“Hazardous waste” means any substance identified or listed as a hazardous waste by the United States Environmental Protection Agency pursuant to 40 CFR Part 261.~~

~~“Hazardous waste treatment, disposal, and recovery facility” means all land and physical structures, other appurtenances and improvements on the land used for the treatment, disposal, or recovery of hazardous waste.~~

~~“Municipal separate storm sewer system (MS4)” means a system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains maintained by the city and designed for collecting or conveying stormwater, and which is not used for collecting or conveying sewage. The phrase is synonymous with municipal stormwater system.~~

~~“Notice of intent (NOI)” means the form application used to apply for a permit to discharge stormwater from either a construction site or industrial site.~~

~~“Notice of termination (NOT)” means the statement completed by either the construction or industrial site permittee which attests to either the completion of a project or the termination of permitted stormwater discharges from a site.~~

~~“NPDES general permit for stormwater discharges associated with industrial activity” (or “industrial general permit”) means the industrial general permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent modifications or amendments thereto.~~

~~“NPDES permit” means a permit issued by the United States Environmental Protection Agency or by the Kansas Department of Health and Environment which authorizes the discharge of pollutants into waters of the United States, whether the permit is issued to an individual, group, or on a general area-wide basis.~~

~~“Owner” means the person or persons who, individually or taken together, either: have control over the facility operational specifications or construction site (including the ability to make modifications in specifications); or have the day-to-day operational control over those activities at the facility or construction site necessary to ensure compliance with pollution prevention requirements and any permit conditions.~~

~~“Qualified personnel” means persons who possess the appropriate skills and ability as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally accepted industry standards for such activity.~~

~~“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system or the waters of the United States.~~

~~“Stormwater” means water which results from storm runoff, snow melt runoff, and surface runoff and drainage.~~

~~“Stormwater discharge associated with industrial activity” means the discharge from any system 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 within one of the categories of facilities listed in 40 CFR Part 122.26(b)(14), and which is not excluded from the United States Environmental Protection Agency’s definition of the same term.~~

~~“Stormwater pollution prevention plan (SWP2 plan)” means a plan required by either the Kansas Department of Health and Environment or the city which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction activity or industrial activity.~~

~~“Water quality standard” means the criteria set by the Kansas Department of Health and Environment for individual pollutants based on different water uses within the state of Kansas.~~

Section 7. That section 14.80.030, Statement of purpose, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.15.020.

Section 8. That section 14.80.040, Statement of policy, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.15.030.

Section 9. That section 14.80.050, Applicability, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.15.040.

Article II. Administration & Enforcement

903 Section 10. That the Code of the City of Topeka, Kansas, is hereby amended
904 by adding a section to be numbered 13.15.100, which said section reads as follows:

905 **Powers and duties of the Superintendent.**

906 The Superintendent shall have the responsibility and authority to ensure
907 compliance with the NPDES Permits issued to the City in order to protect the waters of
908 the State of Kansas and the United States.

909 (a) Specifically the Superintendent is authorized to perform the necessary
910 construction, repair, maintenance and rehabilitation as is necessary in his judgment to
911 ensure the safe and efficient functioning of POTW system. Additionally the
912 Superintendent shall be responsible for the efficient and safe treatment of all waste at
913 the POTW and the treatment, application or disposal of solid waste. The
914 Superintendent shall also have the authority to ability to regulate industrial pretreatment,
915 and the hauling and disposal of liquid waste.

916 (b) Superintendent is authorized to perform the construction, repair,
917 maintenance and rehabilitation as is necessary in his or her sole judgment to ensure
918 the MS4 system functions safely and efficiently to limit erosion and protect water
919 quality. This authority shall include the authority for bank stabilization and clearing
920 obstructions in natural channels and streams. Additionally the Superintendent shall
921 have the authority to implement drainage correction to alleviate surface water
922 flooding or erosion. The Superintendent shall have the authority to regulate
923 construction activities, stream buffer regulation, and excavation.

924 Section 11. That the Code of the City of Topeka, Kansas, is hereby amended
925 by adding a section to be numbered 13.15.110, which said section reads as follows:

Notice of violation.

(a) Contents of notice. Whenever the Superintendent finds that any user has violated or is violating any provisions set forth in chapters 13.20, 13.25 and 13.30, the Superintendent may serve notice upon such user which contains the following:

(1) The street address or a legal description sufficient for identification of the premises at which the violation is occurring.

(2) A clear statement of violation and code section in violation.

(3) If applicable, notice may contain a statement of the corrective action required to be taken as determined by the Superintendent.

(b) Service of notice. The notice and any amended or supplemental notice shall be served upon the owner of record, and one (1) copy thereof shall be served on each of the following if applicable if known or disclosed from official public records; i) the tenant in possession or ii) contractor or other individual named in permit upon which work is being done on the premises. The failure of the Superintendent to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

(c) Method of service. Service of the notice shall be made upon all persons entitled either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the register of deeds, Shawnee County records or at the address listed in the permit or under which the work is being done. If the location of such person is unknown or if no address of such person so appears after diligent effort, and copies of such notice shall

949 be mailed by first class mail to the individual at the address of the real property at which
950 the violation is occurring, and a copy or such notice shall be published once in the
951 official city paper. The failure of any such person to receive such notice shall not affect
952 the validity of any proceedings taken under this section. Service by certified mail in the
953 manner herein provided shall be effective on the date of receipt.

954 Section 12. That the Code of the City of Topeka, Kansas, is hereby amended
955 by adding a section to be numbered 13.15.120, which said section reads as follows:

956 **Enforcement methods.**

957 (a) Abatement of nuisance. Once the property owner has been given notice
958 and opportunity to correct the violations and then failed to do so, the City shall be
959 authorized to abate the violation in accordance with K.S.A. § 12-1617e, as amended.

960 (b) Emergency provisions.

961 (1) Immediate abatement. The Superintendent is authorized to require
962 immediate abatement of any violation of the provisions set forth in chapters
963 13.20, 13.25 and 13.30 that constitutes an immediate threat to the health, safety
964 or well-being of the public. If any such violation is not abated immediately as
965 directed by the Superintendent, the City may abate the violation. Any costs of
966 abating incurred by the City shall be fully reimbursed by the property owner
967 and/or responsible party. Any relief obtained under this section shall not prevent
968 the City from seeking other and further relief authorized under this article.

969 (2) Emergency Shut Off Water. In addition to any other remedies
970 available under this article, the Superintendent shall be authorized to order the

971 shut off of water to the property to eliminate an immediate threat to health, safety,
972 wellbeing of the public.

973 (3) Placarding. Whenever the Superintendent determines that there
974 has been a violation of this code or has reasonable grounds to believe that a
975 violation has occurred that is an immediate threat to the health, safety, or well-
976 being of the public, the Superintendent shall have the authority to order the
977 immediate removal of persons from their property shall give notice to the owner
978 or the person or persons responsible therefore in the manner prescribed below.
979 Such written notice shall contain the following:

980 i. The street address or a legal description sufficient for
981 identification of the premises at which the violation is occurring.

982 ii. A clear statement of violation and code section in violation.

983 iii. If applicable, notice may contain a statement of the
984 corrective action required to be taken as determined by the
985 Superintendent.

986 (4) Stop Work Order.

987 i. Authority: Whenever the Superintendent finds any
988 construction activity being performed is either in violation of the provisions
989 set forth in chapters 13.20, 13.25 or 13.30, applicable permit, or is
990 dangerous or unsafe, the Superintendent is authorized to issue a stop
991 work order.

992 ii. Issuance: The stop work order shall be in writing and shall
993 be given to the owner of the property involved, or to the owner's agent, or

994 to the person doing the work. Upon issuance of a stop work order, the
995 cited work shall immediately cease. The stop work order shall state the
996 reason for the order, and the conditions under which the cited work will be
997 permitted to resume.

998 iii. Unlawful Continuance: It shall be unlawful for any person to
999 continue to work after having been served with a stop work order, except
1000 such work as that person is directed to perform to remove a violation or
1001 unsafe condition.

1002 (5) Injunctions. Whenever a violation of the provisions set forth in
1003 chapters 13.20, 13.25 or 13.30 causes or threatens to cause a condition of
1004 contamination, pollution or nuisance, the Superintendent may petition the district
1005 court for the issuance of a preliminary or permanent injunction, or both, as may
1006 be appropriate in restraining the continuance of such violation.

1007 Section 13. That the Code of the City of Topeka, Kansas, is hereby amended
1008 by adding a section to be numbered 13.15.130, which said section reads as follows:

1009 **Administrative search warrants.**

1010 If the Superintendent has been refused access to a building, structure or
1011 property, or any part thereof, and if the Superintendent has demonstrated probable
1012 cause to believe that there may be a violation of the provisions set forth in chapters
1013 13.20, 13.25 or 13.30 or that there is a need to inspect the property to verify compliance
1014 with the provisions of chapters 13.20, 13.25 or 13.30 or any permit or order issued
1015 hereunder, or to protect the overall public health, safety and welfare of the community,
1016 then upon application to a District Court Judge, shall obtain an administrative search

warrant describing therein the specific location subject to the administrative warrant.
The warrant shall specify what, if anything may be searched on the property described.
Such warrant shall be served at reasonable hours by Superintendent.

Section 14. That the Code of the City of Topeka, Kansas, is hereby amended
by adding a section to be numbered 13.15.140, which said section reads as follows:

Administrative monetary penalties.

The Superintendent shall have the authority to impose the following
administrative monetary penalty.

(a) The following administrative monetary penalty shall apply to violations of
the provisions relating to construction activity and erosion and sediment control in
chapters 13.20, 13.25 or 13.30:

(1) \$50 per violation for a first violation.

(2) \$100 per violation for a second violation within a continuous twelve
(12) month period of the first violation.

(3) \$200 per violation for a third or subsequent violation within a
continuous twelve (12) month period of the two previous violations.

(b) The following administrative monetary penalty shall apply to violations of
the provisions relating to the introduction of industrial or hazardous waste into municipal
separate storm sewer system or municipal sanitary sewer system in chapters 13.20,
13.25 or 13.30:

(1) \$100 per violation for a first violation.

(2) \$500 per violation for a second violation within a continuous twelve
(12) month period of the first violation.

(3) \$1000 per violation for a third or subsequent violation within continuous twelve (12) month period of the two previous violations.

Section 15. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.15.150, which said section reads as follows:

Criminal prosecution.

(a) It shall be unlawful for any person to violate any provisions of chapters 13.20, 13.25 or 13.30.

(b) Any person violating this section may be punished by:

(1) A fine of not more than \$499.00;

(2) Imprisonment in jail for not more than 179 days; or

(3) Both such fine and imprisonment not to exceed theses limits.

Section 16. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.15.160, which said section reads as follows:

Appeal.

Appeals from notices of violation and administrative hearings shall be in accordance with the administrative appeal procedure set forth in Chapter 2.145.

Section 17. That section 14.80.060, Notice of Violation, of the Code of the City of Topeka, Kansas, is hereby repealed.

Notice of violation.

~~Whenever the Superintendent or his designated representative finds that any user has violated or is violating this chapter, the wastewater discharge permit, or any prohibition, limitation or requirements contained in this chapter, the Superintendent or his designated representative may serve by certified mail written notice upon such user,~~

~~which states the nature of the violation. Within 30 days of the date of notice, a detailed compliance plan for the satisfactory correction thereof shall be submitted to the Superintendent by the user.~~

Section 18. That section 14.80.070, Revocation of wastewater discharge permit, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Revocation of wastewater discharge permit.~~

~~Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this chapter:~~

~~(a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;~~

~~(b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;~~

~~(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or~~

~~(d) Violation of conditions of the wastewater discharge permit.~~

Section 19. That section 14.80.080, Issuance of cease and desist orders, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Issuance of cease and desist orders.~~

~~When the division of water pollution control finds that a discharge of wastewater has been taking place, or threatens to take place, in violation of prohibitions or limitations of this chapter, or the provisions of the wastewater discharge permit, the~~

Superintendent may issue an order to cease and desist, directing those persons not complying with such prohibitions, limits, requirements or provisions to:

(a) Comply forthwith;

(b) Comply in accordance with a compliance schedule set forth by the department; or

(c) Take appropriate or remedial preventive action in the event of a threatened violation.

Section 20. That section 14.80.090, Termination of service, of the Code of the City of Topeka, Kansas, is hereby repealed.

Termination of service.

~~(a) The Superintendent may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit. This subsection is in addition to other statutes, rules or regulations authorizing termination of service for delinquency in payment.~~

~~(b) Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer and/or water connections, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Superintendent~~

shall ~~reinstate the wastewater permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the cause of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.~~

Section 21. That section 14.80.100, Liability for damage, of the Code of the City of Topeka, Kansas, is hereby repealed.

Liability for damage.

~~Any person who causes or is responsible for damage to any public sanitary or storm sewer or appurtenances thereto, including manholes, catchbasins and inlets, shall be liable for the cost of repairs to that facility. The repairs may be made by a private contractor or by personnel of the division of water pollution control, at the option of the Superintendent. Cost of repair shall be the responsibility of the person causing or responsible for the damage. If the person responsible for the damage refuses to pay the cost of the repair bill, at the option of the Superintendent, the cost for making the repairs may be added on to the property tax of any real property belonging to the person responsible for the damage to the public facility.~~

Section 22. That section 14.80.110, Injunctions, of the Code of the City of Topeka, Kansas, is hereby repealed.

Injunctions.

~~Whenever a discharge of wastewater is in violation of the provisions of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, the department may petition the district court for the issuance of a~~

~~preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge.~~

Section 23. That section 14.80.120, Falsifying Information, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Falsifying information.~~

~~It shall be illegal for any person to knowingly make any false statement, representation, record, report, plan or other document to the division of water pollution control. It shall also be illegal for any person to falsify or knowingly render inaccurate any monitoring device or method which is required under this chapter.~~

Section 24. That section 14.80.130, Criminal Violations, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Criminal violations.~~

~~Any person who intentionally discharges wastewater in any manner in violation of this chapter or of any order issued by the Superintendent shall be guilty of a misdemeanor.~~

Section 25. That section 14.80.140, Civil penalty order, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Civil penalties.~~

~~In addition to any other penalty provided by law, a civil penalty in an amount up to \$1,000 per day per violation may be assessed against a user by the Superintendent for violation of the following:~~

~~(a) Any term or condition of any sewage discharge permit.~~

~~(b) Any effluent standard or limitations or any water quality standard or other rule or regulation promulgated by federal, state or local law or regulation.~~

~~(c) Any filing, reporting, inspection or monitoring requirement required by federal, state or local law or regulation.~~

~~(d) Any lawful order or requirement made by the Superintendent of the water pollution control division.~~

~~In the case of a continuing violation, each day such violation continues shall be deemed a separate violation. Consideration may be given for accidental or inadvertent spills or releases.~~

Section 26. That section 14.80.150, Determination of civil penalties, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Determination of civil penalties.~~

~~(a) Notice. Prior to the assessment of a civil penalty, the Superintendent shall hold a hearing on the matter. The Superintendent shall send notice of the hearing by registered mail to the user. The notice shall include:~~

~~(1) A listing of section titles and numbers alleged to have been violated;~~

~~(2) Dates of violation(s);~~

~~(3) A brief factual basis demonstrating the alleged violation; and~~

~~(4) A specific date, time and location where a hearing will be held, which shall not be less than 10 days or more than 30 days after the service of the notice.~~

~~(b) Hearing. At the hearing under this section the following shall apply:~~

~~(1) The Superintendent of the water pollution control division shall act as hearing officer.~~

~~(2) The parties in interest shall have the right to file an answer to the complaint(s) and give testimony at the hearing.~~

~~(3) The rules of evidence shall not be controlling at the hearing.~~

~~(4) The hearing officer shall have the power to:~~

~~(i) Investigate the facts alleged to constitute the violation;~~

~~(ii) Administer oaths and/or affirmations;~~

~~(iii) Examine witnesses;~~

~~(iv) Receive evidence;~~

~~(v) Make a determination if a violation has occurred; and~~

~~(vi) Impose a penalty within the limits provided by ordinance.~~

~~(5) The hearing officer shall have the power to change, modify or suspend any imposition of a fine or penalty where the hearing officer finds there is practical difficulty or undue hardship connected with the performance of any act required by the provisions of this chapter or by applicable rules and regulations issued pursuant thereto and that such extension is in harmony with the general purpose of this chapter to secure public health, safety and welfare.~~

Section 27. That section 14.80.160, Civil penalty order, of the Code of the City of Topeka, Kansas, is hereby repealed.

Civil penalty order.

~~No penalty shall be imposed except upon the written order of the Superintendent of the division of water pollution control to the user stating the violation found, the penalty imposed and the right of such person to an appeal to the district court of the~~

1199 ~~state. Such order shall be served upon each party found to be in violation, or their lawful~~
1200 ~~agent, by registered mail.~~

1201 Section 28. That section 14.80.170, Regulatory penalty, of the Code of the City
1202 of Topeka, Kansas, is hereby repealed.

1203 **~~Regulatory penalty.~~**

1204 ~~If any public, state or federal agency imposes or threatens to impose any penalty~~
1205 ~~upon the department, the department will immediately notify the person who is~~
1206 ~~suspected of causing the department to be in violation by virtue of their discharge to the~~
1207 ~~city sewer. If a penalty is subsequently assessed against the department, the person~~
1208 ~~causing the department to be in violation shall be liable for such penalty. All fines~~
1209 ~~imposed as a result of a violation of this chapter shall be paid to the city and credited to~~
1210 ~~the department.~~

1211 Section 29. That section 14.80.180, Damage to facilities, of the Code of the City
1212 of Topeka, Kansas, is hereby repealed.

1213 **~~Damage to facilities.~~**

1214 ~~When it has been determined that a discharge of wastes causes an obstruction,~~
1215 ~~damage or any other impairment to POTW facilities, the division of water pollution~~
1216 ~~control may assess a charge against the user causing that discharge for the work~~
1217 ~~required to clean or repair the facility, and add such charge to the user's wastewater~~
1218 ~~service charges. The determination of responsibility may be negotiated between the~~
1219 ~~division of water pollution control and the user or may be determined by an independent~~
1220 ~~consulting firm.~~

Section 30. That section 14.80.190, Publication of industrial users with significant noncompliance, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Publication of list of industrial users with significant noncompliance.~~

~~The city shall publish, at least annually, within the largest daily local newspaper, a list of industrial users that were found to be in significant noncompliance with applicable pretreatment standards and requirements during the previous 12 months.~~

CHAPTER 13.20 SEWAGE AND SEWAGE DISPOSAL

Article I. Sewer Construction and Connections

Section 31. That section 14.80.200, Connection required--Enforcement, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.100

Section 32. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.20.110, which said section reads as follows:

Defective private service line or septic system.

It shall be unlawful to permit or allow the leakage of water, sewage or other matter from a private service line, septic system including septic tank, piping, or lateral line, or onto private or public property thereby creating unhealthy conditions that constitute an immediate threat to the health, safety, or well-being of the public.

Section 33. That section 14.80.210, Size, location, plans, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.120.

Section 34. That section 14.80.220, Permit—Required, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.130.

1244 Section 35. That section 14.80.230, Permit--Conditions, of the Code of the City
1245 of Topeka, Kansas, is hereby renumbered as section 13.20.140.

1246 Section 36. That section 14.80.240, Sanitary sewer failures and repair
1247 responsibilities, of the Code of the City of Topeka, Kansas, is hereby renumbered as
1248 section 13.20.150.

1249 Section 37. That section 14.80.250, Settling, collapse of public ways due to
1250 faulty sewer installation—Repairs, of the Code of the City of Topeka, Kansas, is hereby
1251 renumbered as section 13.20.160.

1252 Article II. Service Outside City

1253 Section 38. That section 14.80.260, Approval of connections by engineer—
1254 Compliance with applicable laws, of the Code of the City of Topeka, Kansas, is hereby
1255 renumbered as section 13.20.170.

1256 Section 39. That section 14.80.270, Rates, of the Code of the City of Topeka,
1257 Kansas, is hereby renumbered as section 13.20.180.

1258 Section 40. That section 14.80.280, Sewer districts--Application, of the Code of
1259 the City of Topeka, Kansas, is hereby renumbered as section 13.20.190.

1260 Section 41. That section 14.80.290, Sewer districts—License or contract, of the
1261 Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.200.

1262 Section 42. That section 14.80.300, Conditions of contracts, of the Code of the
1263 City of Topeka, Kansas, is hereby renumbered as section 13.20.210.

1264 Section 43. That section 14.80.310, Annexation and funding of sewer service
1265 and extensions, of the Code of the City of Topeka, Kansas, is hereby renumbered as
1266 section 13.20.220.

Section 44. That section 14.80.320, Agreement for annexation for future connections, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.230.

Article III. Use Regulations

Section 45. That section 14.80.330, Combined sewers not to be approved, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.240.

Section 46. That section 14.80.340, Unlawful use and/or maintenance of certain drains, discharges and mechanisms, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.250.

Section 47. That section 14.80.350, Prohibitions on storm drainage and groundwater, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.260.

Section 48. That section 14.80.360, Prohibition on unpolluted water, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.270.

Section 49. That section 14.80.370, Unlawful waste discharges in sanitary sewer, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.280.

Section 50. That section 14.80.380, Federal categorical pretreatment standards, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.290.

Section 51. That section 14.80.390, Limitations–Wastewater strength, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.300 and amended to read as follows:

Limitations – Wastewater strength.

(a) No person shall discharge wastewater containing in excess of 1.76 mg/l lead or 2.61 mg/l zinc.

(b) No person who conducts a silver associated process shall discharge wastewater containing in excess of 0.57 mg/l total silver. Persons who do not engage in silver associated processes are prohibited from discharging detectable amounts of silver until such time as a determination can be made of the silver associated process and/or an adjustment can be made to the silver limit so as to protect the POTW and/or receiving stream. Any adjustment of the silver limit shall be in conformity with 40 CFR 403.

(c) The limitations of subsection (a) of this section are subject to change if and when they become unacceptable to the division of water pollution control or to any public agency having regulatory jurisdiction over the division of water pollution control.

(d) No person shall discharge wastewater containing concentrations which will violate conditions found in this chapter or wastewaters which will violate the conditions established by the definitions of pass-through and interference. The division of water pollution control reserves the right to define numerical discharge permit limits as out lined in this chapter for any parameters as may be needed to protect the POTW system.

(e) No person shall discharge any wastewater:

(1) Having an average daily temperature higher than 140 degrees Fahrenheit or causing the temperature of the sewage in the city sewer to be raised more than 10 degrees Fahrenheit.

- 1313 (2) Having a pH lower than 5.5 or higher than 10.8.
- 1314 (3) Having any water or waste containing fats, wax, grease or oils
- 1315 excluding soy or vegetable oil, whether emulsified or not, in excess of 100 mg/l or
- 1316 containing substances which may solidify or become viscous at temperatures
- 1317 between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius).
- 1318 (4) Having any water or waste containing soy or vegetable oil
- 1319 emulsified or not in excess of 150 mg/l.
- 1320 (5) Containing petroleum oil, nonbiodegradable cutting oil or products
- 1321 of mineral oil origin in amounts that will cause interference or pass-through.
- 1322 Section 52. That section 14.80.400, Limitation—Radioactive wastes, of the
- 1323 Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.310.
- 1324 Section 53. That section 14.80.410, Limitations—Use of garbage grinders, of
- 1325 the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.320.
- 1326 Section 54. That section 14.80.420, Limitations—Point of discharge, of the
- 1327 Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.330.
- 1328 Section 55. That section 14.80.430, *REPEALED*, of the Code of the City of
- 1329 Topeka, Kansas, is hereby renumbered as section 13.20.340.
- 1330 Section 56. That section 14.80.440, Certain connections to be sealed with blind
- 1331 plug until area adjacent to foundation backfilled and compacted, of the Code of the City
- 1332 of Topeka, Kansas, is hereby renumbered as section 13.20.350.
- 1333 Section 57. That section 14.80.450, Basement or excavation water, removal, of
- 1334 the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.360.

1335 Section 58. That section 14.80.460, Dilution of discharges, of the Code of the
1336 City of Topeka, Kansas, is hereby renumbered as section 13.20.370.

1337 Section 59. That section 14.80.470, Monitoring facilities, of the Code of the City
1338 of Topeka, Kansas, is hereby renumbered as section 13.20.380.

1339 Section 60. That section 14.80.480, Pretreatment, of the Code of the City of
1340 Topeka, Kansas, is hereby renumbered as section 13.20.390.

1341 Section 61. That section 14.80.490, Accidental discharges and/or slug loads, of
1342 the Code of the City of Topeka, Kansas, is hereby renumbered as 13.20.400 and
1343 amended to read as follows:

1344 **Accidental discharges, ~~and/or slug loads~~ or treatment bypass.**

1345 (a) Each discharger shall provide protection from accidental discharge and/or
1346 slug loads of prohibited materials or other wastes regulated by this chapter. Users shall
1347 submit oral notice to the water pollution control division within 24 hours from the time
1348 the user becomes aware of the accidental discharge, slug discharge or treatment
1349 bypass. A written submission shall also be provided within five days of the time the
1350 user becomes aware of the bypass. The written submission shall contain:

1351 (1) A description of the accidental discharge, slug load or treatment
1352 bypass and its cause;

1353 (2) The ~~duration~~ exact date and time of the accidental discharge, slug
1354 load or treatment bypass, ~~including exact dates and times, and, if the bypass has~~
1355 ~~not been corrected, the anticipated time it is expected to continue; and~~

1356 (3) The exact date and time of correction and volume of the accidental
1357 discharge, slug load or treatment bypass;

(4) If the accidental discharge, slug load or treatment bypass has not been corrected, the anticipated time it is expected to continue; and

(5) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the accidental discharge, slug load or treatment bypass.

(b) The notification required by this section will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process, or for any fines imposed on the water pollution control division on account thereof by any public, state or federal agency.

(c) The water pollution control division may issue various notices and information directed towards more effective water pollution control. Such notices and information shall be made available to employees of the user for their information and to solicit their cooperation. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter.

(d) Any possible connection or entry point for a persistent or deleterious substance to be discharged to the user's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of such substance in violation of this chapter.

(e) In any case where an industrial user knows in advance of the need to bypass and/or discharge a slug load, it shall submit prior notice to the ~~division of water pollution control~~ Superintendent at least 10 days before the date of bypass and/or discharge of a slug load. Such notice shall include information which identifies the time

and date of the start and stop of the discharge, the estimated volume of the discharge,
as well as any proposed primary treatment to be applied to the discharge.

(f) Upon the request of the Superintendent, any industrial user may be required to submit to the division of water pollution control a slug control plan. The plan shall contain, at a minimum, the following elements:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals; and

(3) Procedures for immediately notifying the water pollution control division of slug discharges, including any discharge that would violate a prohibition of this chapter, with procedures for follow-up written notification within five days.

Article IV. Wastewater Discharge Permit

Section 62. That section 14.80.500, When required, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.410 and amended to read as follows:

When requiredWastewater discharge permit.

All significant industrial users ~~in any of the following categories are hereby defined as significant industrial users,~~ and shall be required to obtain a wastewater discharge permit before connecting to or discharging into a sanitary sewer:

~~(a) Users whose average wastewater strength cannot be established because of seasonal or other variations and/or operations.~~

~~(b) Users whose wastewater strength exceeds the normal range of wastewater strength.~~

~~(c) Users using an unmetered source of water.~~

~~(d) Users who fall under those guidelines set forth for federal categorical industries.~~

~~(e) Users discharging an amount greater than 25,000 gallons per day of process wastewater for any day during the preceding 12-month period.~~

~~(f) Users whose average discharge, measured either by volume of flow, weight of suspended solids, biochemical oxygen demand or chemical oxygen demand, exceeds two percent of the average loading on the applicable treatment facility.~~

~~(g) Other users determined by the Superintendent to require special regulation or source control.~~

Section 63. That section 14.80.510, Operational permits, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.420.

Section 64. That section 14.80.520, Application, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.430.

Section 65. That section 14.80.530, Evaluation and acceptance, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.440.

Section 66. That section 14.80.540, Conditions, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.450.

Section 67. That section 14.80.550, Permit modifications to comply with new pretreatment standards, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.460.

Section 68. That section 14.80.560, Duration, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.470 and amended to read as follows:

Duration.

Permits issued under this article shall be for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of ~~180~~forty-five (45) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

Section 69. That section 14.80.570, Transfer, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.480.

Section 70. That section 14.80.580, Duties of Superintendent, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.490.

Section 71. That section 14.80.590, Inspection and sampling, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.500.

Section 72. That section 14.80.600, Trade secrets, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.510.

Section 73. That section 14.80.610, Reporting requirements, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.520.

1448 Section 74. That section 14.80.620, Notice of hazardous waste discharge, of
1449 the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.530.

1450 Section 75. That the Code of the City of Topeka, Kansas, is hereby amended
1451 by adding a section to be numbered 13.20.540, which said section reads as follows:

1452 **Significant noncompliance.**

1453 It shall be unlawful for any industrial user to be in significant noncompliance with
1454 the pretreatment requirements set forth in this article. An industrial user is in significant
1455 noncompliance if its violation meets one or more of the following criteria:

1456 (a) Chronic violations: Sixty-six percent (66%) or more of the measurements
1457 exceed the same daily maximum limit or the same average limit in a six (6) month
1458 period (any magnitude of exceedance).

1459 (b) Technical review criteria or "TRC" violations: Thirty-three percent (33%) or
1460 more of the measurements exceed the same daily maximum limit or the same average
1461 limit by more than the TRC in a six(6) month period.

1462 There are two (2) groups of TRCs: BOD, TSS, fats, oil, and grease, where the TRC is
1463 1.4; and group II for all other pollutants, where the TRC is 1.2.

1464 (c) Any other violation of an effluent limit (average or daily maximum) that the
1465 city believes has caused, alone or in combination with other discharges, interference
1466 (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment
1467 personnel or the public.

1468 (d) Any discharge of a pollutant that has caused imminent endangerment to
1469 human health/welfare or to the environment and has resulted in the POTW's exercise of
1470 its emergency authority to halt or prevent such a discharge.

(e) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.

(f) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, ninety (90) day compliance reports, and periodic reports) within thirty (30) days from the due date.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations that the Superintendent considers to be significant.

Section 76. That section 14.80.630, Recordkeeping, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.550.

Article V. Septic Tank Truck Operators

Section 77. That section 14.80.640, Liquid waste haulers, discharge permit required, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.560.

Section 78. That section 14.80.650, Liquid waste discharge permit application, application fee, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.570.

Section 79. That section 14.80.660, Control authority, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.580.

Section 80. That section 14.80.680, Permit, conditions, renewal, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.590.

Section 81. That section 14.80.690, Liquid waste discharge location, fees, manifest, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.600.

Section 82. That section 14.80.700, Discharge of contents from holding tanks, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.610.

Section 83. That section 14.80.710, Change in liquid waste profile, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.620.

Section 84. That section 14.80.720, Rights of refusal, of the Code of the City of Topeka, Kansas is hereby renumbered as section 13.20.630.

Section 85. That section 14.80.730, Enforcement, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.640.

Section 86. That section 14.80.740, Liquid waste hauler—Regulatory penalty, the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.650.

Section 87. That section 14.80.750, Liquid waste hauler—Damage to facilities, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.660.

Section 88. That section 14.80.760, Liquid waste hauler—Criminal, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.670.

Article VI. Sewage Connection and Disposal Charges

Section 89. That section 14.80.770, Connection fees and monthly rate/charges established, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.680.

Section 90. That section 14.80.780, Calculation of charges and classification of users, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.690.

Section 91. That section 14.80.790, Standard classification charges, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.700.

Section 92. That section 14.80.795, Treatment of liquid waste—Setting of rate, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.710.

Section 93. That section 14.80.800, Special treatment conditions, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.720.

Section 94. That section 14.80.810, Special metering conditions, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.730.

Section 95. That section 14.80.820, Rendering of bills, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.740.

Section 96. That section 14.80.830, Effective date for charges, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.750.

Section 97. That section 14.80.840, Payment required—No discrimination, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.760.

Section 98. That section 14.80.850, Sewage disposal system fund, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.770.

Section 99. That section 14.80.860, Certification of names of water users without sewage connection, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.780.

Section 100. That section 14.80.870, Failure to pay bill, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.790.

Section 101. That section 14.80.880, Charges for restoring service, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.800.

Section 102. That section 14.80.890, Overpayment or underpayment, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.810.

Article VII. Grease Generators

Section 103. That section 14.80.900, Use of grease traps/interceptors, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.820.

Section 104. That section 14.80.910, Quarterly reporting, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.830.

Section 105. That section 14.80.920, Record keeping, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.840.

Section 106. That section 14.80.930, Additives, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.850.

Article VIII. Grease Hauler

Section 107. That section 14.80.940, License required, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.860.

Section 108. That section 14.80.950, Application, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.870.

Section 109. That section 14.80.960, License term, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.880.

Section 110. That section 14.80.970, License fee, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.890.

Section 111. That section 14.80.980, Grease hauler license renewal, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.900.

Section 112. That section 14.80.990, Grease waste inspection, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.910.

Section 113. That section 14.80.1000, Record keeping, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.920.

Section 114. That section 14.80.1010, Late fees, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.930.

Section 115. That section 14.80.1020, Suspension or revocation of license, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.940.

Section 116. That section 14.80.1030, Prohibited acts, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.20.950.

CHAPTER 13.25 STORMWATER UTILITY

Article I. Generally

Section 117. That section 14.85.010, General, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.25.010.

Section 118. That section 14.85.020, Statement of intent, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.25.020.

Section 119. That section 14.85.040, Findings, determinations and powers, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.25.030.

1580 Section 120. That section 14.85.050, Operating budget, of the Code of the City
1581 of Topeka, Kansas, is hereby renumbered as section 13.25.040.

1582 *Article II. Stormwater Drainage Fee*

1583 Section 121. That section 14.85.060, Fee established, of the Code of the City of
1584 Topeka, Kansas, is hereby renumbered as section 13.25.050.

1585 Section 122. That section 14.85.070, Fee for residential developed property, of
1586 the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.25.060.

1587 Section 123. That section 14.85.080, Fee for nonresidential developed property,
1588 of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.25.070.

1589 Section 124. That section 14.85.090, Dwelling unit and impervious surface
1590 calculation—Generally, of the Code of the City of Topeka, Kansas, is hereby
1591 renumbered as section 13.25.080.

1592 Section 125. That section 14.85.100, Dwelling unit and impervious surface
1593 calculation—Appeal, of the Code of the City of Topeka, Kansas, is hereby renumbered
1594 as section 13.25.090.

1595 Section 126. That section 14.85.110, Collection of fee, of the Code of the City of
1596 Topeka, Kansas, is hereby renumbered as section 13.25.100.

1597 Section 127. That section 14.85.120, Program responsibility, of the Code of the
1598 City of Topeka, Kansas, is hereby renumbered as section 13.25.110.

1599 Section 128. That section 14.85.130, Stormwater utility enterprise fund, of the
1600 Code of the City of Topeka, Kansas, is hereby renumbered as section 13.25.120.

1601 *CHAPTER 13.30 EROSION AND SEDIMENT CONTROL*

1602 Section 129. That section 14.90.010, Statement of Purpose, of the Code of the
1603 City of Topeka, Kansas, is hereby renumbered as section 13.30.010.

1604 Section 130. That section 14.90.030, Prohibition of illicit discharges into the
1605 municipal separate storm sewer system, of the Code of the City of Topeka, Kansas, is
1606 hereby renumbered as section 13.30.020.

1607 Section 131. That section 14.90.040, Exceptions, of the Code of the City of
1608 Topeka, Kansas, is hereby renumbered as section 13.30.030.

1609 Section 132. That section 14.90.050, Reporting of accidental discharges into the
1610 municipal storm sewer system, of the Code of the City of Topeka, Kansas, is hereby
1611 renumbered as section 13.30.040.

1612 Section 133. That section 14.90.060, Responsibility for costs of accidental
1613 discharge, of the Code of the City of Topeka, Kansas, is hereby renumbered as section
1614 13.30.050.

1615 Section 134. That the Code of the City of Topeka, Kansas, is hereby amended
1616 by adding a section to be numbered 13.30.060, which said section reads as follows:

1617 **Erosion and sediment control standards.**

1618 The Superintendent shall adopt and maintain Erosion and Sediment Control
1619 Standards to assist in the administration of this chapter. The Erosion and Sediment
1620 Control Standards shall be based on, but not limited to, the following principles:

1621 (a) Fit the development to existing site conditions.

1622 (b) Minimize the extent of exposure.

1623 (c) Minimize duration of exposure.

1624 (d) Break work activities into phases when possible.

(e) When possible, protect disturbed areas from any unnecessary run-on of stormwater from adjacent sites, at least during the construction period.

(f) Stabilize disturbed areas.

(g) Keep runoff velocities low.

(h) Retain sediment on the site.

(i) Inspect and maintain control measures.

(j) Use performance measures and outcomes.

(k) Timely employment and maintenance of all measures.

(l) BMPs as identified by the Superintendent.

Section 135. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.30.070, which said section reads as follows:

General provisions.

Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements of this article, any person engaged in activities or operation, or owning facilities or property which will or may result in pollutants entering stormwater, the storm drain system, or waters of the U.S. shall implement best management practices to the extent they are technologically achievable to prevent and reduce such pollutants.

(a) Any person undertaking land disturbance activities shall comply with the requirements and standards set forth in this chapter. Permit requirements for land disturbance activities are set forth in this chapter.

(b) Applicability. Regardless of whether or not a land disturbance activity requires a permit, any person engaged in any land disturbance activity shall comply with

the spirit and intent of this chapter. At a minimum, such persons shall employ BMPs for erosion and sediment control in proportion to the scale of the activity to reduce the amount of sediment or other pollutants in stormwater discharges associated with those activities.

(c) Responsible Person(s). When the term “responsible person(s)” is used in this chapter it shall mean the landowner of the property upon which a land disturbance activity takes place and any person(s) performing a land disturbance activity. When a permit is issued, a landowner is responsible for land disturbance activities from permit issuance to closure, unless the City approves a transfer of responsibility to a new landowner when land is sold.

(d) Time Requirement. Where land disturbance activities have temporarily or permanently ceased on a portion of a project site for over fourteen (14) consecutive days, the disturbed areas shall be protected from erosion by stabilizing the areas with mulch or other similarly effective soil stabilizing BMPs, unless the timeframe for compliance is extended by the Superintendent. Where implementation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

Section 136. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.30.080, which said section reads as follows:

Permit.

(a) No person shall receive any permit for building, grading or other land development without meeting the requirements of this title and obtaining a land disturbance activity permit. Additionally, no responsible person shall initiate any grading

1671 or other land disturbance activity without first obtaining a land disturbance activity
1672 permit.

1673 (b) Application; Requirements. A land disturbance activity permit shall be
1674 required when any of the following occur:

1675 (1) The removal, increase or stockpiling of any materials exceeds
1676 either 3,000 square feet or 100 cubic yards.

1677 (2) The grading, excavation or stockpiling of any earthwork significantly
1678 changes a recognized, established watercourse or results in a significant change
1679 in drainage or runoff conditions to an established drainage easement of record.

1680 (3) The land disturbance activity exceeds one (1) acre in area.

1681 (4) The Superintendent determines that a land disturbance activity
1682 permit is required because of unique circumstances and a potential impact on the
1683 environment.

1684 (c) The land disturbance activity permit shall be obtained prior to clearing of
1685 land in preparation for any of the activities set out in subsection (a). When the area
1686 exceeds one (1) acre, the land disturbance activity permit must be applied for at least
1687 ninety (90) days prior to beginning construction.

1688 (d) Application; Exceptions. A land disturbance activity permit shall not be
1689 required for the following:

1690 (1) The removal or increase of earthwork in conjunction with any
1691 construction project of less than 3,000 square feet for which a building or
1692 construction permit has been issued, provided the removal or increase of
1693 earthwork is contained on the parcel of property at which the land disturbance

activity is taking place. Property adjoining the parcel of property for which a building permit or construction permit has been issued may be used for the temporary storage of fill material provided written permission has been obtained from the adjoining property owner and the storage of fill materials ends at the completion of the permitted work. However, the work will conform to the standards and other requirements of this article and other applicable city ordinances.

(2) Cemetery graves.

(3) Sanitary landfills, where such landfills have been authorized by KDHE.

(4) Demolition landfills, where such landfills have been authorized by KDHE.

(5) Exploratory excavations, tests and sampling under the direction of a soils engineer or engineering geologist or as approved by the public works director.

(e) Nothing contained in this subsection (c) shall be construed as exempting from regulation excavation work or land disturbance activity which is regulated by separate permit as required under federal or state law or regulation or an permit or requirements set forth in TMC 12.45.040 concerning construction activity in the city's rights-of-way; TMC 17.15.140 concerning construction activities in floodplains; TMC 12.20.020 concerning construction adjacent to flood control levees; or TMC 17.10.040 concerning activities in buffer zones.

1716 (f) Review. The Superintendent shall complete a review of the SWPPP
1717 within fourteen (14) days of receiving the SWPPP from the developer.

1718 (1) Permit Required. If Superintendent determines that the SWPPP
1719 meets the requirements of this ordinance, Superintendent shall issue a permit
1720 valid for a specified period of time that authorizes the land disturbance activity
1721 contingent on the implementation and completion of the SWPPP.

1722 (2) Denial. If Superintendent determines that the SWPPP does not
1723 meet the requirements of this ordinance, the City shall not issue a permit for the
1724 land disturbance activity. The SWPPP must be resubmitted for approval before
1725 the land disturbance activity begins. All land use and building permits shall be
1726 suspended until the developer has an approved Stormwater Pollution Prevention
1727 Plan.

1728 (3) Superintendent inspections and enforcement. The Superintendent
1729 shall conduct inspections on a regular basis to ensure that erosion and sediment
1730 control measures are properly installed and maintained. In all cases the
1731 inspectors will attempt to work with the builder or developer to maintain proper
1732 erosion and sediment control at all sites. In cases where cooperation is withheld,
1733 construction stop work orders shall be issued by the Superintendent, until erosion
1734 and sediment control measures meet the requirements of this ordinance. An
1735 inspection must follow before work can commence. Inspections are required as
1736 follows:

1737 i. Before any land disturbance activity begins.

ii. For residential construction, at the time of footing inspections.

iii. At the completion of the project.

Section 137. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.30.090, which said section reads as follows:

Fees.

All applications for a permit under this article shall be accompanied by a fee to cover the costs of plan review and inspection. Such fees shall be in accordance with the following:

<u>Removal or Increase of</u>	<u>LDA/ Sq Ft.</u>	<u>Fee</u>
<u>0--100 cubic yards</u>	<u>0-3,000</u>	<u>\$0</u>
<u>101--1,000 cubic yards</u>	<u>3,000-1 acre</u>	<u>\$70.00</u>
<u>1,001--5,000 cubic yards</u>	<u>1-5 acres</u>	<u>\$120.00</u>
<u>5,001--500,000 cubic yards</u>	<u>5-10 acres</u>	<u>\$220.00</u>
<u>500,001 or greater cubic yards</u>	<u>10+ acres</u>	<u>\$320.00</u>

Section 138. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 13.30.100, which said section reads as follows:

Stormwater Prevention Plan or Erosion and Sediment Control Plan.

(a) SWPPP required. A SWPPP shall be required for any project which will have Land Disturbance Activity of one acre or more. Applicant for a permit shall provide Superintendent with a copy of NOI issued by KDHE and a copy of SWPPP submitted as part of the NOI application.

(b) Erosion Control Plan required. An Erosion and Sediment Control Plan shall be required for any project which will have removal or increase of 101 or more cubic yards of soil or other material subject to erosion by wind or water or Land Disturbance Activity of 3,000 or more feet but less than one (1) acre.

(c) The Erosion Control Plan or SWPPP shall meet the following criteria:

(1) Minimize, in area and duration, exposed soil and unstable soil conditions.

(2) Minimize disturbance of natural soil cover and vegetation.

(3) Protect receiving water bodies, wetlands and storm sewer inlets.

(4) Protect adjacent properties from sediment deposition.

(5) Minimize off-site sediment transport on trucks and equipment.

(6) Minimize work in and adjacent to water bodies and wetlands.

(7) Maintain stable slopes.

(8) Avoid steep slopes and the need for high cuts and fills.

(9) Minimize disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing.

(10) Minimize the compaction of site soils.

(d) Erosion and Sediment Control Plan or SWPPP Requirements. The Erosion and Sediment Control Plan or SWPPP shall include the following on all relevant plans and drawings:

(1) Site plans for existing and proposed conditions. A complete site plan and specifications, signed by the person who designed the plan shall be

drawn to an easily legible scale, shall be clearly labeled with a north arrow and a date of preparation, and shall include, at a minimum, the following information:

i. Project map – A map at least 8.5 by 11 inches indicating site boundaries, property lines and lot dimensions in relation to surrounding roads, buildings and other structures, and other significant geographic features.

ii. Identification of all natural and artificial water features (including drain tiles) on or adjacent to the site including, but not limited to lakes, ponds, streams (including intermittent streams), wetlands, natural or artificial water diversion or detention areas, subsurface drainage facility, stormwater conveyance, and storm sewer catch basins.

iii. Identification of 100 year flood elevations and stream buffers.

iv. Existing and proposed grades showing drainage on and adjacent to the site.

v. Existing and proposed impervious surfaces.

vi. Steep slopes where areas of 12% or more exist over a distance for 50 feet or more.

vii. Location of all areas not to be disturbed during construction including trees, vegetation, and appropriated areas for infiltration.

viii. Proposed grading or other land-disturbing activity including areas of grubbing, clearing, tree removal, grading, excavation, fill and other disturbance; areas of soil or earth material storage; quantities of soil

or earth material to be removed, placed, stored or otherwise moved on site, and delineated limits of disturbance.

ix. Locations of proposed runoff control, erosion prevention, sediment control, and temporary and permanent soil stabilization measures.

(2) Erosion and Sediment Control Plan or SWPPP Specifications. The Erosion and Sediment Control Plan or SWPPP shall include a specifications section that addresses and includes the following requirements that are applicable to the project:

i. Stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the down gradient side or otherwise effectively protected from erosion if the soil or material is stockpiled for more than seven (7) calendar days. No stockpiling is allowed in the street.

ii. To reduce soil compaction and enhance vegetation establishment all compacted soil shall be tilled to a depth of at least six inches before revegetation.

iii. Provide that all silt fences used for erosion and sedimentation control and all other temporary controls shall not be removed until seventy percent (70%) of the permanent ground cover has been established and all temporary erosion control shall be removed within thirty (30) days thereafter.

1822 iv. Methods to prevent sediment damage to adjacent properties
1823 and sensitive environmental areas such as water bodies, plant
1824 communities, rare, threatened and/or endangered species habitat, wildlife
1825 corridors, greenways, etc.

1826 v. Design and construction methods to stabilize steep slopes.

1827 vi. Stabilization of all waterways and outlets.

1828 vii. Protection of storm sewer infrastructure from sediment
1829 loading or plugging.

1830 ix. Stabilization of disturbed areas, including utility construction
1831 areas, as soon as possible.

1832 x. Protection of roads from sediment and mud from
1833 construction site activities.

1834 xi. Disposal of collected sediment and floating debris.

1835 xii. Any mitigation measures required as a result of any review
1836 conducted for the project (e.g. stream buffer mitigation, etc.).

1837 (3) Schedule of events. A detailed schedule indicating dates and
1838 sequence of land alteration activities; implementation, maintenance and removal
1839 of erosion and sedimentation control measures; and permanent site stabilization
1840 measures shall be provided.

1841 (4) Designation of responsible person. The Erosion and Sediment
1842 Control Plan or SWPPP must identify the person who will oversee the
1843 implementation of the Erosion and Sediment Control Plan and the installation,

inspection and maintenance of the temporary and permanent erosion control measures.

(5) Monitoring, reporting and inspection. A detailed description of how erosion control, sediment control and soil stabilization measures implemented pursuant to the Erosion and Sediment Control Plan or SWPPP will be monitored, reported, maintained and removed. At a minimum the erosion and sediment and control plan or SWPPP shall provide for the following:

(a) During the construction season, the Responsible party shall inspect the erosion and pollution control devices and complete the inspection and maintenance reports every 7 days and within 24 hours of a precipitation event of ½ inch or more.

(b) During inactive seasons, such as winter shutdowns, inspection of the site condition shall be made at lease once a month. The devices shall be monitored at least daily during prolonged rainfall. Corrective action must begin within 48 hours of any deficiencies being found and must be completed within 7 calendar days.

(c) Each inspection report shall contain, at a minimum, the name of the responsible party, date of inspection, observations relative to the effectiveness of the erosion and pollution control measures, actions taken or necessary to correct deficiencies and areas where activities have been completed. Site inspection reports shall be maintained onsite with the SWPPP or erosion control plans.

(6) Changes or modification. Superintendent will require additional or modified information when there is a change in design, operation, maintenance, weather or seasonal conditions that have a significant effect on discharge and/or inspections indicate that the Erosion and Sediment Control plan is not effective and existing BMPs are not controlling pollutants and discharges from the site.

(e) SWPPP or Erosion and Sediment Control Plan Performance Standards and Design Criteria. All SWPPPs and Erosion and Sediment Control Plans shall be reviewed by the Superintendent for effectiveness of erosion and sediment control measures in the context of the site topography and drainage. Proposed design, suggested location and phased implementation of effective, practicable stormwater pollution prevention measures for SWPPPs and Erosion and Sediment Control Plans shall be designed, engineered and implemented using the following performance standards and design criteria.

(1) Runoff easements. If a stormwater management plan involves directing some or all runoff from the site, the Responsible Person shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

(2) Scheduling site activities. The Responsible Person shall schedule site activities to lessen their impact on erosion and sediment creation.

(3) Minimize exposed soil. The Responsible Person shall minimize the amount of exposed soil. Mass grading should be avoided and sequencing promoted. At no time shall no more than 20 acres be exposed.

(4) Perimeter sediment controls. Perimeter sediment control measures shall be properly installed by the builder before construction activity begins. Such structures may be adjusted during dry weather to accommodate short term activities, such as those that require very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the Superintendent.

(5) Channel protection. Channel protection measures will be required as set forth in the Erosion Control Plan, SWPPP or as set forth in the applicable state or federal regulation.

(6) Outlet Protection. Pipe outlets must have energy dissipation installed within 24 hours of connection to a surface water.

(7) Erosion and Sediment Control methods. i) All disturbed areas shall be stabilized if it has not been worked for fourteen (14) days with temporary erosion protection or permanent cover. ii) If more than ten (10) acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed. When site restrictions do not allow for a temporary sediment basin, equivalent measures such as smaller basins, check dams, and vegetated buffer strips can be included. iii) For disturbed areas less than ten (10) acres sedimentation basins are encouraged, but not required. The Responsible Person shall install erosion and sediment controls at locations directed by the Superintendent. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences, rock check dams, etc. must be regularly inspected and maintained.

(8) Sediment basins related to impervious surface area - Where a project's ultimate development replaces surface vegetation with one or more cumulative acres of impervious surface, and all runoff has not been accounted for in the City Of Topeka's existing stormwater management plan or practice, runoff from the ½-inch 24-hour storm event shall be treated unless discharge is to a special water where runoff from the 1-inch 24-hour storm event shall be treated.

(9) Silt fence – Silt fence shall be properly installed by being trenched and buried at least six inches into the soil. Generally, sufficient silt fence will be required to contain sheet flow runoff generated at an individual site.

(10) Stockpile protections - For soil stockpiles greater than ten (10) cubic yards the toe of the pile must be more than twenty-five (25) feet from a road, drainage channel or stormwater inlet. If left for more than seven (7) days, erosion from stockpiles must be controlled with perimeter control devices such as silt fence. If the physical features on the site prevent stockpiling at least twenty-five (25) feet from a road drainage channel or stormwater inlet, the Superintendent may allow stockpiling within twenty-five (25) feet provided the stockpile must be controlled with perimeter control devices immediately.

(11) Vehicle entrances - Temporary rock construction entrances must be installed and maintained wherever vehicles enter and exit a site. The design of this entrance shall take into consideration the amount of traffic that will be entering and exiting the site. Construction entrances shall be stabilized with at least 2" clear aggregate or an approved equal as determined by the

1934 Superintendent. On sites with high traffic, the Superintendent may require wash
1935 racks, wash ponds or other means of minimizing sediment leaving the site.

1936 (12) Street cleaning - Streets shall be cleaned and swept within 24
1937 hours whenever tracking of sediments occurs and before sites are left idle for
1938 weekends and holidays.

1939 (13) Dewatering treatment required – Sediment laden water that is being
1940 removed from the site by pumping or trenching shall be treated to remove a
1941 minimum of 80 percent removal of suspended solids before discharge. Water
1942 may not be discharged in a manner that causes erosion to receiving channels or
1943 flooding of the discharge site.

1944 (14) Storm drain protection - All storm drain inlets shall be protected
1945 during construction with control measures as approved by the Superintendent.
1946 These devices shall remain in place until final stabilization of the site. A regular
1947 inspection and maintenance plan shall be developed in implemented to assure
1948 these devices are operational at all times. Storm drain protection shall be
1949 removed and area inlet shall be cleaned of debris following site stabilization.

1950 (f) Modification of Plan. The Responsible Person must amend the Erosion
1951 Control Plan or SWPPP as necessary to include additional requirements such as
1952 additional or modified BMPs designed to correct problems identified or address
1953 situations whenever:

1954 (1) A change in design, construction, operation, maintenance, weather,
1955 or seasonal conditions that has a significant effect on the discharge of pollutants
1956 to surface waters or underground waters.

(2) Inspections indicate the Erosion Control Plan or SWPPP is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.

(3) The SWPPP is not achieving the general objectives of controlling pollutants or is not consistent with the terms and conditions of this permit.

Section 139. That section 14.90.160, Regulation of industrial activities, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.30.110 and amended to read as follows:

Regulation of industrial activities.

~~(a) — General.~~ All operators of landfills; hazardous waste treatment, disposal, and recovery facilities; municipal waste facilities; EPA hazardous waste generators; Kansas hazardous waste generators; and industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA); and any other industrial facilities the director of public works determines are contributing a substantial pollutant load to the municipal stormwater sewer system; and who must obtain coverage for stormwater discharge associated with industrial activity shall:

(4a) Submit to the Superintendent a signed copy of notice of intent (NOI) or notice of nonexposure NOE, filed with the state of Kansas, ~~to the stormwater section of the water pollution control division.~~

(2b) Prepare and implement a stormwater pollution prevention plan in accordance with the requirements set forth in operator's KDHE industrial stormwater permit. ~~Any time there is a change in design, construction, operation, or maintenance,~~

which has a significant effect on potential stormwater discharges, or if the SWP2 plan is deemed ineffectual, the SWP2 plan must be updated. The operator shall retain the SWP2 plan for at least one year after stormwater discharges from industrial activities have ceased. The operator shall retain records for a six-year period of all sampling collection, and monitoring information collected and submit them on request to the director of public works. The operator shall upon request provide the Superintendent with a copy of the SWPPP including any amendments thereto.

(3c) No discharge shall contain any hazardous metals in a concentration greater than that which would exceed state of Kansas Surface Water Quality Standards.

Section 140. That section 14.90.170, Sampling of stormwater runoff by each industry, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.30.120 and amended to read as follows:

Sampling of stormwater runoff by each industry.

The operator shall upon request by Superintendent provide aA copy of any stormwater sampling and analysis results willrequired to be submitted to the ~~city's water pollution control, stormwater section, on an annual basis~~ KDHE under the terms of the industrial stormwater permit. Any additional information about each industry's sampling program shall be submitted to the ~~city's water pollution control, stormwater section~~ Superintendent upon request including, but not limited to:

- (a) Results from the stormwater sampling;
- (b) Maintenance records on stormwater structural controls;
- (c) Information on the status and performance of stormwater structural controls;

(d) Information on the status and performance of any stormwater nonstructural controls; and

(e) Copies of all Superfund Amendments and Reauthorization Act Title III Section 313 reports that contain information on ground water and surface water monitoring, chemical release data, and corrective actions required by Kansas Department of Health and Environment.

Section 141. That section 14.90.180, inspection of industrial facilities, of the Code of the City of Topeka, Kansas, is hereby renumbered as section 13.30.130 and amended to read as follows:

Inspection of industrial facilities.

At least once per year qualified personnel (provided by the operator) shall conduct a comprehensive site compliance evaluation. The operator shall upon request provide the Superintendent a copy of the annual site compliance evaluation. The operator shall submit to the Superintendent a copy of the notice of termination (NOT), submitted to the state of Kansas upon cessation of all stormwater discharges associated with industrial activity.~~Based upon this evaluation, the stormwater pollution prevention plan will be updated as needed. Within 10 days of completion of the comprehensive site compliance evaluation, the individual reporting shall submit a report summarizing the scope of the evaluation to the city's water pollution control division, stormwater section.~~

~~The city's water pollution control division, stormwater section, shall maintain an inventory of municipal landfills; hazardous waste treatment, disposal, and recovery facilities, and industrial facilities that are subject to Section 313 of Title III of the~~

~~Superfund Amendments and Reauthorization Act of 1986 and any other industrial facilities that the permittee has determined to be contributing a substantial pollutant load to the municipal stormwater sewer system.~~

~~The city's water pollution control division, stormwater section will sample stormwater from at least two of the sites listed in the inventory on an annual basis for the following parameters:~~

~~(a) Any pollutants limited in an existing NPDES permit for the facility.~~

~~(b) Oil and grease.~~

~~(c) Chemical oxygen demand.~~

~~(d) pH.~~

~~(e) Biochemical oxygen demand (five-day).~~

~~(f) Total suspended solids.~~

~~(g) Total phosphorus.~~

~~(h) Total Kjeldahl nitrogen.~~

~~(i) Nitrate plus nitrite reported as N.~~

~~(j) A minimum of a single grab sample shall be obtained within the first 30 minutes of stormwater runoff. The storm event should result in one-tenth inch or more of rainfall.~~

~~Where all stormwater discharges associated with industrial activity have ceased, the operator of the facility shall submit a copy of notice of termination (NOT), submitted to the state of Kansas, to the director of public works.~~

Section 142. That section 14.90.070, Construction sites of five acres or greater of total disturbed area, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Construction sites of five acres or greater of total disturbed area.~~

~~(a) The owner, contractor, or subcontractor who is undertaking any construction activity which disturbs five or more acres of total land area shall:~~

~~(1) Apply to the state of Kansas for a general NPDES permit for discharges of stormwater runoff from construction activities.~~

~~(2) Apply for any and all other city applicable permits.~~

~~(b) In addition, any contractor or subcontractor who is undertaking a public improvement shall:~~

~~(1) Incorporate a stormwater pollution prevention plan into project specifications.~~

~~(2) Submit a copy of the notice of intent (NOI) submitted to the state of Kansas to the department of public works engineering division of the city with project plans and specifications.~~

~~(3) Submit a copy of the notice of termination (NOT) submitted to the state of Kansas to the department of public works engineering division of the city after final stabilization of the site.~~

~~(c) In addition, an owner, contractor, or subcontractor undertaking a private improvement shall:~~

~~(1) Submit a copy of the notice of intent (NOI) submitted to the state of Kansas to the department of public works, development services division, of the city 30 days prior to groundbreaking.~~

~~(2) Implement stormwater pollution prevention plan according to state of Kansas guidelines.~~

~~(3) Submit a copy of the notice of termination to the department of public works, development services division, of the city upon completion of project (final stabilization).~~

~~Each construction site owner, contractor, and subcontractor will be fully responsible for the proper implementation of the state required stormwater pollution prevention plan from preconstruction to final stabilization of the construction site.~~

Section 143. That section 14.90.080, Construction sites of less than five acres but greater than one acre of total disturbed area, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Construction sites of less than five acres but greater than one acre of total disturbed area.~~

~~A city permit for construction activity shall be required for any clearing, grading, excavation or construction of less than five acres but greater than one acre in an area. It is a violation of municipal code to proceed with clearing, grading, excavation or construction of less than five acres but greater than one acre without a permit for construction activity. A permit shall be obtained 30 days prior to clearing of land in preparation for any construction except:~~

~~(a) The removal or increase of earthwork if in conjunction with any construction project of greater than five acres for which a building or construction permit has been issued. Property adjoining the parcel or property for which a building permit or construction permit has been issued may be used for the temporary storage of fill material, provided written permission has been obtained from the adjoining property owner and the storage of fill materials ends at the completion of the permitted work.~~

2093 However, the work will conform to the standards and other requirements of this chapter
2094 and other applicable city ordinances.

2095 ~~(b) Cemetery graves.~~

2096 ~~(c) Sanitary landfill where authorized.~~

2097 ~~(d) Demolition landfills where the Shawnee County health officer has authorized~~
2098 ~~the same.~~

2099 ~~(e) Exploratory excavations, tests, and/or sampling under the direction of a soil~~
2100 ~~engineer or engineering geologist or as approved by the department of public works.~~

2101 ~~Nothing contained herein shall be construed as exempting from regulation~~
2102 ~~excavation work which is regulated by separate permit as set forth in TMC [12.45.040](#),~~
2103 ~~Application and permit required, or TMC [17.15.140](#) (floodplain).~~

2104 Section 144. That section 14.90.090, Application for a city permit for construction
2105 activity, of the Code of the City of Topeka, Kansas, is hereby repealed.

2106 **~~Application for a city permit for construction activity.~~**

2107 ~~(a) A city permit for construction activity application shall be submitted:~~

2108 ~~(1) For public improvements to the department of public works, engineering~~
2109 ~~division, for plan review and approval and issuance of a permit 30 days prior to any~~
2110 ~~groundbreaking activity.~~

2111 ~~(2) For private improvements to the department of public works, development~~
2112 ~~services division, for plan review and approval and issuance of a permit 30 days prior to~~
2113 ~~any groundbreaking activity.~~

2114 ~~(b) Each construction activity application will include a stormwater pollution~~
2115 ~~prevention plan consisting of:~~

~~(1) A detailed construction schedule that includes:~~

- ~~(i) When construction is scheduled to begin;~~
- ~~(ii) Timeline for stabilization of denuded areas;~~
- ~~(iii) When installation of BMPs will occur;~~
- ~~(iv) When earthen structure construction will occur;~~
- ~~(v) Timing for grading phases;~~
- ~~(vi) Timing for construction phases; and~~
- ~~(vii) Projection of final stabilization of site.~~

~~(2) A description of best management practices to be used on the site including:~~

- ~~(i) Physical description of best management practices;~~
- ~~(ii) Site and physical conditions that must be met for effective use of each best management practice;~~
- ~~(iii) Best management practice installation/construction procedures, including typical drawings; and~~
- ~~(iv) Operation and maintenance procedures for best management practices.~~

~~The stormwater pollution prevention plan shall be amended and updated as appropriate during the term of the permit or upon request by the director of public works.~~

~~The development services division will provide the application forms.~~

Section 145. That section 14.90.100, Submittal of best management practices, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Submittal of best management practices.~~

~~A description of best management practices to be used shall be submitted with any and all building application requirements to the city's department of public works,~~

development services division, or engineering division, before any earth moving can begin.

The city may deny a building permit, or any other required city approval necessary to commence or continue construction, on the grounds that the best management practices are not sufficient to control and reduce the discharge of sediment, silt, earth, soil, and other materials from the site.

Any owner, contractor or subcontractor who is responsible for implementing best management practices is responsible for any willful or negligent failure on his/her part to adequately implement control measures if such failure causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit, or any other state-issued discharge permit for discharges from its municipal storm sewer system.

Section 146. That section 14.90.110, Regulation of construction sites, of the Code of the City of Topeka, Kansas, is hereby repealed.

Regulation of construction sites.

Any owner of a construction site or contractor or subcontractor working on a construction site shall use best management practices in accordance with concepts and methods described in Protecting Water Quality: A Field Manual for Missouri and Kansas* to control and reduce the discharge of pollutants to the municipal storm sewer system and waters of the United States to the maximum extent practicable.

The construction site contractor or subcontractor will supply qualified personnel to inspect disturbed areas of any construction site that has not been finally stabilized, areas used for storage of materials exposed to precipitation, best management practices installed on site, and locations where vehicles enter or exit the site.

2162 Section 147. That section 14.90.120, Best management practices requirements,
2163 of the Code of the City of Topeka, Kansas, is hereby repealed.

2164 ~~**Best management practices requirements.**~~

2165 ~~(a) When a best management practices submittal is required, it shall include the~~
2166 ~~following information:~~

2167 ~~(1) Whether the best management practice is temporary or permanent;~~

2168 ~~(2) Where, in relation to other site features, the best management practice is to~~
2169 ~~be located;~~

2170 ~~(3) When, in relation to each phase of the construction procedures to complete~~
2171 ~~the project, the best management practice will be installed; and~~

2172 ~~(4) Site conditions that must be met before removal of the best management~~
2173 ~~practice, if the best management practice is not permanent.~~

2174 ~~(b) In addition, best management practices shall:~~

2175 ~~(1) Preserve existing vegetation where practical.~~

2176 ~~(2) Minimize areas of soil without vegetative cover to the extent practical.~~

2177 ~~(c) Where soil-disturbing activities will be stopped in an area for over 14 days, it~~
2178 ~~shall be the duty of the permit holder to protect the disturbed areas from erosion by~~
2179 ~~stabilizing the area with mulch or other similarly effective erosion control practices.~~

2180 Section 148. That section 14.90.130, Construction activity permit issuance –
2181 Criteria for approval, suspension, and revocation, of the Code of the City of Topeka,
2182 Kansas, is hereby repealed.

2183 **14.90.130 Construction activity permit issuance – Criteria for approval,**
2184 **suspension, and revocation.**

~~A permit shall be issued only when the requirements of this chapter with regard to the permit application, stormwater pollution prevention plan, required fees, and all other requirements have been satisfied. Any physical change in the site as a result of grading operations such as surface water drainage, soil and bedrock dislocations, alterations of ground water discharge, or any other natural or manmade modification which would cause doubt to be cast upon the feasibility of the contents of the original permit or stormwater pollution prevention plan must be reported in the intervening period between permit approval and stormwater pollution prevention plan implementation.~~

~~In granting a permit, the development services division, or engineering division, may attach such conditions as may reasonably be necessary to prevent danger to public or private property or to prevent the operations from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but are not limited to:~~

~~(a) Limitations on the hours of operation.~~

~~(b) Designation of traffic routes upon which materials may be transported.~~

~~(c) The place and manner of disposal of excavated or imported materials.~~

~~(d) Requirements as to the control of dust and tracking of dirt or other consequences of the operation which may be offensive or injurious to the neighborhood or to the general public.~~

~~(e) Regulations as to the use of public streets and places in the course of the work.~~

~~(f) Requirements for safe and adequate drainage of the site.~~

~~(g) Requirements for the fencing of excavation or fills which would be hazardous without such fencing.~~

~~Every city permit for construction activity shall expire and become null and void if substantial work authorized by such permit has not commenced within 180 days of issuance or is not completed within one year from the date of issuance.~~

~~Any permittee holding an unexpired permit may apply in writing for an extension of the time within which construction operations are to be commenced or completed. The development services division, or engineering division, may extend the expiration date of the permit for a period not exceeding 180 days if the permittee presents satisfactory evidence that unusual difficulties have prevented commencement or completion of construction. The development services division, or engineering division, may suspend or revoke a city permit for construction activity if it is found that the applicant has failed to abide by the conditions of approval. It shall be a violation of municipal code to proceed with construction activity if a permit is suspended or revoked.~~

Section 149. That section 14.90.140, Completion of construction work, of the Code of the City of Topeka, Kansas, is hereby repealed.

Completion of construction work.

~~(a) Final Reports. Upon completion of grading work the development services division, or engineering division, may require the following reports and drawings and supplements thereto:~~

~~(1) An as-graded grading plan prepared by the civil engineer, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. The civil~~

2231 engineer shall state that to the best of his/her knowledge the work was done in
2232 accordance with the final approved grading plan.

2233 ~~(2) A soils grading report prepared by the soils engineer, including locations and~~
2234 ~~elevations of field density tests, summaries of field density tests, summaries of field and~~
2235 ~~laboratory tests and other substantiating data and comments on any changes made~~
2236 ~~during grading and their effect on the recommendations made in the soils engineering~~
2237 ~~investigation report. The soils engineer shall render a finding as to the adequacy of the~~
2238 ~~site for the intended use.~~

2239 ~~(3) A geologic grading report prepared by the engineering geologist, including a~~
2240 ~~final description of the geology of the site and any new information disclosed during the~~
2241 ~~grading and the effect of such new information on recommendations incorporated in the~~
2242 ~~approved grading plan. The engineering geologist shall render a finding as to the~~
2243 ~~adequacy of the site for the intended use as affected by geologic factors.~~

2244 ~~(b) The permit holder shall notify the development services division, or~~
2245 ~~engineering division, when the grading operation is ready for final inspection. Final~~
2246 ~~approval shall not be given until all work, including installation of all drainage facilities~~
2247 ~~and their protective devices and all erosion control measures have been completed and~~
2248 ~~the site stabilized in accordance with the stormwater pollution prevention plan, and the~~
2249 ~~required reports have been submitted.~~

2250 Section 150. That section 14.90.150, Fees, of the Code of the City of Topeka,
2251 Kansas, is hereby repealed.

2252 **Fees.**

~~A fee to cover the costs of plan review and inspection shall accompany all applications for a construction activity permit under this chapter. Such fees shall be in accordance with the following:~~

(a)	One to three-acre construction sites	.00	\$40
(b)	Three to five-acre construction sites	.00	\$75

Section 151. That section 14.90.190, Citizen participation, of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Citizen participation.~~

~~The water pollution control division of public works will receive citizen reports by telephone, in writing, and in person concerning any and all suspected illicit discharges into the municipal stormwater sewer system.~~

~~The water pollution control division of public works will keep a written record of each citizen report on file for a period of five years. This record will be furnished to the reporting citizen, upon request, along with information on any action undertaken by the city.~~

Section 152. That original § 14.80.390, § 14.80.490, § 14.80.500, § 14.80.560, § 14.90.160, § 14.90.170 and §14.90.180 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 153. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 154. This ordinance shall supersede any ordinances, resolutions or rules, or portions thereof, in conflict with the provisions of this ordinance.

Section 155. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council December 21, 2010.

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Brenda Younger, City Clerk