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ORDINANCE NO. 20089

AN ORDINANCE introduced by Interim City Manager Douglas Gerber concerning the organization of the utilities department, adding new sections and amending and repealing several original sections of Title 13, Utilities, of the City of Topeka Code.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 13.05.017, Water, water pollution control, and stormwater utility, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Water, water pollution control, and stormwater utility.

(a) The ~~city council~~ governing body of the city of Topeka, Kansas, hereby authorizes the combination of the city's water and water pollution control utility and the city's stormwater utility into a single utility to be known as the water, water pollution control, and stormwater utility of the city of Topeka, Kansas.

(b) The city manager is hereby authorized to take such further actions as may be necessary to effectuate the creation of such water, water pollution control, and stormwater utility herein authorized and the mayor and city clerk are hereby authorized to execute any and all documents necessary to effectuate such purpose.

(c) The utility rates provided in this article for the water, water pollution control, and stormwater utility shall be set by the governing body to provide for the payment of the costs of operating and maintaining the water, water pollution control, and stormwater utility and paying the principal of and interest on all bonds and other obligations of the water, water pollution control, and stormwater utility in order that such utility rates of the water division, water pollution control division, and/or stormwater division of the water, water pollution control, and stormwater utility not be set or

otherwise established so that the utility rates of one such division subsidize the other.

(d) The revenues of the water, water pollution control, and stormwater utility are hereby pledged to the payment of any revenue bonds or other obligations issued or incurred by the city in connection with the city's water, water pollution control, and stormwater utility.

(e) The ~~public works~~utilities director shall establish a central utility billing office, administered by the ~~water division~~utilities department for billing and collecting all utility charges imposed by the combined water, water pollution control, and stormwater utility of the city of Topeka, Kansas. Furthermore, the city may contract with other local, public utilities to provide such entities with billing and collection services.

Section 2. That section 13.05.050, Sanitary sewer service rates, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Sanitary sewer service rates.

The following are established as the monthly sewer service rates, effective on the dates specified, for discharging wastewater into the sanitary sewer system.

(a) Base Charge. A customer who has a private sewer line that is connected to the city wastewater system, as determined by the utilities director of ~~public works~~ or designee, shall pay a monthly base charge that is based upon the size of the water meter. This base charge shall apply regardless whether wastewater has passed from the private sewer line to the city wastewater system during the billing period. The rates for properties inside and outside the city are as follows:

Base Charge (Property Inside City)

	Jan. 1, 2015	Jan. 1, 2016	Jan. 1, 2017
1" and below	\$9.12	\$9.58	\$10.06

1 1/2"	\$18.24	\$19.15	\$20.11
2"	\$29.19	\$30.65	\$32.18
3"	\$54.73	\$57.47	\$60.34
4"	\$91.22	\$95.78	\$100.57
6"	\$182.44	\$191.56	\$201.14
8"	\$291.91	\$306.51	\$321.84
10"	\$419.62	\$440.60	\$462.63

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Base Charge (Property Outside City)

	Jan. 1, 2015	Jan. 1, 2016	Jan. 1, 2017
1" and below	\$15.96	\$16.77	\$17.61
1 1/2"	\$31.92	\$33.51	\$35.19
2"	\$51.08	\$53.64	\$56.32
3"	\$95.78	\$100.57	\$105.60
4"	\$159.64	\$167.62	\$176.00
6"	\$319.27	\$335.23	\$352.00
8"	\$510.84	\$536.39	\$563.22
10"	\$734.34	\$771.05	\$809.60

52 (b) Wastewater Volume Charge. The customer shall pay on a monthly basis
53 for the volume of wastewater passing from the private sewer line to the city wastewater
54 system according to the rate schedule in subsection (c) of this section.

55 (1) Residential and Multifamily Residences/Public Water System Supply.
56 The charge shall be based on a calculated average water volume
57 determined in accordance with TMC 13.10.490 and 13.10.510 for water
58 used in the months of December, January and February. The average water
59 volume determined by this method shall be referred to as the three-month

winter average. The three-month winter average water volume shall be recalculated each year following the three-month winter period and shall be in effect for the following 12-month period. For a customer who has not established an average, the charge shall be the average of the residential three-month winter average for the applicable meter reading route.

(2) Residential and Multifamily Residences/Well Water Supply. The charge for a customer whose potable water is supplied by a well shall be based on the average of the residential three-month winter average for the applicable meter reading route. Alternatively, the customer may install and maintain, at the customer's cost, a water meter approved by the utilities director of ~~public works~~ or designee. If a meter is installed, the sewer rates shall be calculated based on the average water volume used in the months of December, January, and February as measured at the meter; provided, that access is granted to the utilities director of ~~public works~~ or designee to read, inspect, test, or repair the meter.

(3) Commercial and Industrial. The volume shall be based on the lesser of water volumes determined in accordance with TMC 13.10.490 or actual metered sewer discharges. Credit shall be given for those metered flows which do not enter the sewer collection system. Those customers who discharge wastewater with a biological oxygen demand in excess of 300 milligrams per liter and/or suspended solids in excess of 300 milligrams per liter will be assessed the excess strength charge in accordance with the schedule of rates and charges in subsection (c) of this section.

(c) Schedule of Rates and Charges.

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(1) Inside City.

	Jan. 1, 2015	Jan. 1, 2016	Jan. 1, 2017
Domestic Strength Wastewater:			
Volume Charge per 1,000 gallons	\$4.09	\$4.29	\$4.50
Excess Strength Charges:			
Biochemical Oxygen Demand per mg/l per 1,000 gallons	\$0.002161	\$0.002161	\$0.002161
Suspended Solids per mg/l per 1,000 gallons	\$0.001371	\$0.001371	\$0.001371

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(2) Outside City.

	Jan. 1, 2015	Jan. 1, 2016	Jan. 1, 2017
Domestic Strength Wastewater:			
Volume Charge per 1,000 gallons	\$7.16	\$7.51	\$7.88
Excess Strength Charges:			
Biochemical Oxygen Demand per mg/l per 1,000 gallons	\$0.003782	\$0.003782	\$0.003782
Suspended Solids per mg/l per 1,000 gallons	\$0.002399	\$0.002399	\$0.002399

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(d) Adjustment of Bills.

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(1) Notwithstanding section (b)(3) of TMC 13.05.050, in the event a

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customer's facility bypass system becomes inoperable because of equipment

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failure or system maintenance, the customer may request a temporary

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suspension of the imposition of excess strength charges in accordance with the

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policy established by the utilities director.

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(2) The monthly rate and charge on a bill may be adjusted

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administratively by the water pollution control division to the actual or estimated

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volume or strength, provided a significant change from normal conditions of

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discharge of waste or strength during the billing period can be demonstrated. In

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no event shall an adjusted monthly charge be less than the minimum rate as

established in this section.

Section 3. That section 13.05.060, ERU rate, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

ERU rate.

(a) There is hereby established for purposes of calculating the stormwater drainage fee the equivalent residential unit (ERU). The ERU is hereby established to be 2,018 feet of impervious area.

(b) The ERU rate to be charged for stormwater drainage fees for each ERU is hereby established as follows:

ERU rates per month:	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
Single-family residence:				
Less than 1,500 sq. ft.	\$2.75	\$2.75	\$2.75	\$2.75
1,501 to 3,500 sq. ft.	\$4.25	\$4.25	\$4.25	\$4.25
Over 3,500 sq. ft.	\$6.65	\$6.65	\$6.65	\$6.65
All other residential	\$4.25	\$4.25	\$4.25	\$4.25
All nonresidential	\$4.25	\$4.25	\$4.25	\$4.25

(c) The following enumerated factors and review process are hereby adopted by the city to evaluate any reductions of stormwater utility fees charged to properties which are located within a duly created drainage district:

(1) Quantify the functional activities and frequency for the activities that are being performed within a drainage district's boundary within the city's service area by the city.

(2) Quantify the functional activities and frequency for the activities that are being performed within a drainage district's boundary within the city's service area by the drainage district.

(3) If an identical function is being performed by the drainage district and is

not replicated by the city within the drainage district's service area, quantify the specific unit of service, including but not limited to length, cross-section area, surface area, number of structures, rehabilitation activities and the frequency for this performance.

(4) Compare the same function and frequency with the costs appropriate for the city staff to perform an identical activity utilizing the city's budget for that specific function.

(5) Utilizing the city's cost for a function and the specific units accomplished in the drainage district's boundary, extend the unit cost times the units accomplished to obtain the total annual cost for all identical functions.

(6) Utilizing the total costs for all functions provided by the drainage district based upon city unit costs, divide this total cost by the ERUs within the drainage district (divided by 12 to obtain monthly) and obtain a "drainage district ERU equivalent cost."

(7) For all parcels within the specific drainage district boundary and within the city limits, subject the "drainage district ERU equivalent cost" from the city's stormwater ERU rate (monthly).

(d) The ~~public works~~utilities department is directed to annually review, utilizing the factors and process referenced herein, and determine monetary savings, if any, to the city for stormwater services provided by duly created drainage districts. The ~~public works~~utilities department shall report its determination of savings to the stormwater utility, if any, to the ~~council of the city~~governing body by June 15th of each year. Rate reductions for properties within duly created drainage districts shall be adopted by separate ordinance and be based upon savings to the stormwater utility.

(e) Utilizing the enumerated factors and review process adopted herein, the stormwater rate reduction for the following duly created drainage districts is as follows:

Shunganunga Drainage District 0

Kaw River Drainage District 0

North Topeka Drainage District (per ERU, per month) \$0.83

Section 4. That section 13.10.030, Water superintendent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Water superintendentUtilities director; express authority.

(a) ~~Position Created. There is hereby created the position of water superintendent in the city. The water superintendent~~Utilities Director or designee shall have the authority to manage and control the city's water utility ~~subject to the supervision of the director of public works.~~

(b) Specific Duties, Responsibilities and Authority.

~~(1) The water superintendent is responsible for directing the total operation of the water utility; oversees the inspection and maintenance of facilities; hiring, firing and training of employees (union/nonunion); is involved in negotiating the union contract; and personally directs staff.~~

~~(2) The water superintendent initiates and supervises the development of plans for new facilities at the treatment plant; authorizes installation of water mains; oversees preparation of plans and specifications and compilation of cost estimates; negotiates contract terms; conducts the backflow prevention and cross connection control program; and oversees plans for infrastructure reconstruction, repair or replacement.~~

160 ~~(3)~~ In order to protect the safety of the city's water supply, including
161 maintaining the integrity of any water intake located on the Kansas River, the
162 ~~water superintendent~~utilities director may take appropriate measures to prohibit
163 individuals from entering or remaining within 150 feet of such intake. Such
164 measures may include, but are not limited to, cordoning off the area and posting
165 signs warning of criminal penalties for trespass.

166 ~~(4) The water superintendent prepares the water division budget and~~
167 ~~administers the funds; is responsible for the internal accounting systems,~~
168 ~~combined utility billing and collection systems; and oversees all purchases.~~

169 ~~(5) The water superintendent coordinates the water utility operation with~~
170 ~~federal, state and other regulatory agencies and is responsible for distribution of~~
171 ~~water to all qualified customers.~~

172 ~~(6) The water superintendent prepares/reviews all water division~~
173 ~~ordinances and/or resolutions prior to presentation to the director of public works,~~
174 ~~screens state legislative material which might affect a water utility, serves on~~
175 ~~committees and is active in various associations within the water utility field.~~

176 ~~(7c)~~ The ~~water superintendent~~utilities director shall have the authority to
177 make account adjustments, settle contract disputes, and write off accounts
178 related to the utility billing system and accounts receivable for the purpose of
179 correcting errors, settling disputed accounts, and inducing prompt payment for
180 any amount up to \$10,000. Any account adjustments, write-offs, contract
181 disputes or settlements of disputed accounts exceeding \$10,000 shall be
182 approved by the ~~city council~~governing body.

183 Section 5. That section 13.10.070, Application for city water service line

connection, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Application for city water service line connection.

Any person requesting a new city water service line connection must first make application with the water division.

An application will not be processed unless and until all outstanding debts, if any, due to the city of Topeka, including the combined water, wastewater and stormwater utility, are paid in full, whether such obligation is for unpaid accounts, charges, services, equipment or materials.

Each person requesting a new city water service line connection to the water distribution system shall pay all connection costs, which include water system fees, water service installation fees, tap fees, and other charges, as applicable.

A new city water service line connection shall require the installation of a water meter meeting specifications determined by the ~~water superintendent~~utilities director. Such meters shall be installed at the expense of the property owner and thereafter owned and maintained by the city. All city water service line installations shall be in accordance with the provisions of TMC 13.10.250.

Section 6. That section 13.10.090, Turning off of water, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Turning off of water.

The city reserves the right at any time to shut off the water supply for repairs, extensions, nonpayment of charges, to prevent waste of water, to prevent cross contamination of the water supply system or for any other reason, and shall not be liable for any damage resulting from shutting off the water. When water service has been

turned off by the water division, it shall be unlawful for any person to turn the water on or to connect the premises with water except when authorized in writing by the water division to do so. When water has been so turned on without authority, the water division shall turn off the water at the main, and service will not be restored until the cost of turning such water off and on has been paid by the consumer or the property owner.

Section 7. That section 13.10.100, Persons or companies who can install city water service lines or water meter service, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Persons or companies who can install city water service lines or water meter service.

(a) City Water Service Line. No person shall install any city water service line unless the person shall be a duly licensed contractor to perform work in the city's right-of-way or city employees under the direction of the ~~water superintendent~~utilities director. Service taps to water mains shall only be performed by city employees under the direction of the ~~water superintendent~~utilities director or duly licensed ~~plumbing~~ contractors under the ~~direction of the water superintendent~~direct supervision of an employee of the utilities director department.

(b) Water Meter Service. No person shall install any water meter service or perform any work permitted by the terms of this chapter in the city unless the person shall be a duly licensed plumbing contractor, a licensed ~~utility~~ contractor engaged by the city to perform work on its behalf, or a city employee under the direction of the ~~water superintendent~~utilities director. Any such person shall faithfully comply with all city ordinances and water division policies in reference to excavation and plumbing and all rules and regulations made in pursuance thereof.

232 Section 8. That section 13.10.120, Water service to owner of real property
233 outside city limits – Requirements, of The Code of the City of Topeka, Kansas, is hereby
234 amended to read as follows:

235 **Water service to owner of real property outside city limits – Requirements.**

236 Real property that is located outside of the city’s boundaries may be eligible for
237 water service if the property meets the requirements in subsections (a) and (b) of this
238 section.

239 (a) Annexation. The property to be served is annexed into the city unless the
240 property owner consents to annexation and one of the following applies:

241 (1) There is an imminent threat to public health and safety as determined
242 by the Kansas Department of Health and Environment or a similar regulatory
243 agency, or a court of law. However, this exemption does not apply to property
244 located between the original location of the public infrastructure and the property
245 to be served.

246 (2) Connection to public infrastructure will promote an industrial
247 development project within the employment tier of the urban growth area or
248 outside the urban growth area consistent with the comprehensive plan.

249 (3) The parcels were created before February 15, 2007, in accordance
250 with both the subdivision regulations and zoning in effect at the time of their
251 creation, and water infrastructure, not including transmission lines, is adjacent to
252 the property to be served.

253 (4) The city has agreed to provide water service to the property owner by
254 virtue of the following: (i) a contract; (ii) approval of a final plat prior to February
255 15, 2007, which includes water service; or (iii) an approved plat meeting the

comprehensive plan's urban growth area design standards and compliance with the zoning that was in effect on March 16, 2015.

(5) The city has previously provided water service to the same parcel of real estate for which service has been requested. The reconnection of service shall be limited to the same size of service line as the previous service. Further, the reconnection shall be limited to the same number of lines or connections which previously existed.

(6) Service is requested by a facility owned and operated by a political and taxing subdivision.

(b) Platting. The property to be served is platted consistent with the design standards and development policies contained in the adopted elements of the comprehensive plan unless all of the following conditions exist:

(1) A detached single-family dwelling is located on the property and there are no other structures except permitted accessory structures.

(2) Adequate utility and drainage easements and/or street rights-of-way exist, as determined by the director of ~~public works~~utilities or designee, or such easements are provided by the property owner.

(3) There are no existing or anticipated drainage problems related to the site or the development.

(4) Adequate public utilities service the property.

(5) Existing or proposed improvements comply with all applicable zoning and development code requirements.

Section 9. That section 13.10.140, Application, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Application.

Any person requesting a utility account shall make application with the water division and pay a security deposit when required. Security deposit amounts shall be established by the ~~water superintendent~~utilities director and set forth on a schedule maintained by the ~~water superintendent~~utilities director. Such security deposit amounts shall be sufficient to secure the city from financial loss and based on customer credit history, when applicable. The water division shall return deposit amounts if service is discontinued or if customer credit history justifies return of deposit. The ~~water superintendent~~utilities director shall have the authority to apply deposits, with any accrued interest, towards unpaid utility accounts.

Section 10. That section 13.10.150, Deposits fund, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Deposits fund.

The ~~water superintendent~~utilities director shall keep a record of all deposits made with the water division, together with the name of the depositor and the amount deposited, and such deposit shall be deposited by the ~~superintendent~~utilities director with the city treasurer in a separate account within the water utility fund to be known as customers' deposits; and shall pay to the depositor interest at the rate determined by the state corporation commission, such interest to be credited on January 1st succeeding such deposit and on January 1st thereafter and shall be payable at the water division in cash credited on the utility bill. Interest credited to the customers' deposits shall be charged to the water utility fund. Any interest credited shall not draw interest. Interest earned and received by the city on invested customers' deposits shall be credited to the water utility fund. The fund shall be maintained separately by the city

treasurer and upon discontinuance of service the deposit shall be returned to the customer together with unpaid interest on the deposit at the current rate established for each calendar year as prescribed by K.S.A. 12-822, as may be amended, provided all bills for all city utility services including water repairs or other service rendered shall have been paid by the customer. Should the fund accumulate in a sufficient amount for investment, it shall be invested by the city treasurer in bonds of the city or in such other securities as prescribed by K.S.A. 12-822 and 12-1675, as may be amended.

Section 11. That section 13.10.190, Operations, maintenance and funding, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Operations, maintenance and funding.

The water utility shall include fluoridation in the drinking water treatment operations, as determined by the ~~public works~~utilities director, or his or her designee, and as recommended by the Kansas Department of Health and Environment.

Funds for equipment, operations and maintenance expenses to fluoridate the city's water supply system shall be provided from the water, water pollution control, and stormwater utility fund.

Section 12. That section 13.10.240, Size, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Size.

The size of each city water service line and customer water service line shall be determined by the ~~water superintendent~~utilities director. Any change in the size of the existing city water service line or customer water service line shall be at the expense of the property owner unless the change in size is in the benefit of the water division as determined by the ~~water superintendent~~utilities director.

328 Section 13. That section 13.10.270, City water service line
329 termination/abandonment/replacement, of The Code of the City of Topeka, Kansas, is
330 hereby amended to read as follows:

331 **City water service line termination/abandonment/replacement.**

332 City water service line termination, abandonment and/or replacement shall be in
333 accordance with water division policies established and maintained by the ~~water~~
334 ~~superintendent~~utilities director.

335 Section 14. That section 13.10.290, Fire protection lines, of The Code of the
336 City of Topeka, Kansas, is hereby amended to read as follows:

337 **Fire protection lines.**

338 Services for fire protection shall be fitted with such fixtures only as are needed for
339 fire protection, and shall be installed entirely separate from all city water service lines
340 and customer water service lines used for other purposes, and be kept entirely separate
341 from all other such lines, except as provided in the building conservation code currently
342 adopted by the city or authorized by the ~~water superintendent~~utilities director. Any water
343 pipe which shall be installed as a fire protection line, either sprinkler systems or
344 otherwise, and all valves or openings must be sealed by the water division and the
345 seals shall not be broken, except in case of fire. Immediate notice of breaking of any
346 seal must be given to the water division. All services for fire protection located after the
347 valve isolating the fire protection line from the water main shall be considered to be
348 private fire service lines and shall be the responsibility of the property owner. It shall be
349 the duty and responsibility of the property owner to keep the private fire service line in
350 good repair. In the event the property owner fails to maintain the private fire service line,
351 then the city may undertake the needed repair and assess the cost of repair to the real

property serviced by the private fire service line.

Section 15. That section 13.10.350, Repair, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Repair.

All meters measuring water furnished to consumers shall be repaired or replaced by the water division, ~~provided the meter is installed in an approved meter box or application for installation of the meter box is signed by the property owner or otherwise,~~ and the cost of ~~repairing~~ the repair or replacement shall be charged against the ~~owner~~ water division. All meters damaged by ~~hot water~~ because of the negligent acts or ~~freezing through negligence~~ omissions of the property owner shall be charged to the property owner.

Section 16. That section 13.10.390, Hydrant meter – Deposit required, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Hydrant meter – Deposit required.

Hydrant meter deposit amounts shall be established by the ~~water superintendent~~ utilities director, as approved by the ~~public works~~ utilities ~~director~~ city manager, and set forth on a schedule maintained by the ~~water superintendent~~ utilities director. Such fees shall be based upon the size of the hydrant meter, and cost for the water division to replace the hydrant meter and hydrant wrench.

A refundable deposit shall be required and held without interest. Upon request from customer, deposit shall be refunded after hydrant meter is returned to water division and any cost of damage to meter, meter appurtenances and delinquent amounts due to water division for customer's account have been paid in full.

Section 17. That section 13.10.400 Hydrant meter – Fees, of The Code of the

City of Topeka, Kansas, is hereby amended to read as follows:

Hydrant meter – Fees.

Hydrant meter rental fee amounts shall be established by the ~~water superintendent, as approved by the public works director,~~utilities director and set forth on a schedule maintained by the ~~water superintendent~~utilities director. Such fees shall be based on operating costs for issuing and maintaining hydrant meters.

Customers shall be charged rental fees on a monthly basis, with a minimum charge of one month's rental. Under no circumstances shall fees be prorated.

Customers shall be assessed, when applicable, administrative fees such as: Annual testing fee, manual meter reading and consumption estimation fee, and delinquent account fee.

Administrative fee amounts shall be established by the ~~water superintendent~~utilities director, as approved by the ~~public works~~utilities ~~director~~ city manager, and set forth on a schedule maintained by the ~~water superintendent~~utilities director. Such fees shall be based on operating costs for testing and billing for hydrant meters and may be waived when customers comply with testing and billing requirements.

Section 18. That section 13.10.415, Requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Requirements.

(a) Each owner of a private fire hydrant shall comply with all of the following requirements:

(1) The hydrant shall be used only for fire protection;

(2) The hydrant shall be approved by the fire chief and the ~~water~~

~~superintendent~~utilities director or their designees prior to installation.

(3) The hydrant shall be installed in accordance with the city of Topeka and Shawnee County standard technical specifications in such a manner and location so that the hydrant is accessible at all times to the fire department for the purpose of fire protection.

(4) The connecting water line between the city water main shall not be less than six inches in diameter. When connected to a fire protection line, the owner shall ensure that there is backflow protection in accordance with TMC 14.35.560.

(5) The hydrant shall be painted a bright red color and the pumper nozzle cap (or hose nozzle caps in absence of pumper nozzle) is painted industrial yellow in accordance with the standards of the water division.

(b) Inspection, Testing, Maintenance, Repair. Each owner of a private fire hydrant shall be responsible for the repair and maintenance of each hydrant. This responsibility includes, but is not limited to, the following:

(1) The owner shall perform testing, at the request of the fire department or water division, which demonstrates that the hydrant is in proper operating condition; and

(2) The owner shall perform a flow test on a schedule established by the ~~water superintendent~~utilities director and submit the results, on a form provided by the water division, to the ~~water superintendent~~utilities director within 10 days of the test.

Section 19. That section 13.10.420, Obstruction, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Obstruction.

No person shall obstruct visibility of or accessibility of a public or private fire hydrant by placing material of any kind within a 36" radius around the circumference of the hydrant, including but not limited to ~~snow accumulation, parked vehicles, refuse, equipment, or any obstruction~~ that would impair visibility or accessibility to any firefighter or water utility employee. "Material" includes but is not limited to pushing or stockpiling of snow, vehicles, refuse, equipment, posts, fences and landscaping.

Section 20. That section 13.10.430, Use by city departments and divisions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use by city departments and divisions.

Water used by all city departments and divisions from a fire hydrant shall be measured by a method acceptable to the ~~water superintendent~~utilities director. The fire department shall submit a report monthly to the ~~water superintendent~~utilities director stating estimated water usage for firefighting. All other city divisions or departments shall report monthly to the ~~water superintendent~~utilities director the amount of water used by their department or division.

Section 21. That section 13.10.440, Changing location, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Changing location.

Any change in the location of a private fire hydrant shall be approved by the fire chief, the city engineer and the ~~water superintendent~~utilities director or designee. The cost of moving a hydrant shall be paid by the party desiring the change.

Section 22. That section 13.10.450, Altering color, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Altering color.

It shall be unlawful for any person to alter the color of any fire hydrant in the city absent permission of the ~~water superintendent~~ fire chief and utilities director or their designees.

Section 23. That section 13.10.460, Damage to fire hydrant, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Damage to fire hydrant.

(a) Any person who damages or impairs the operation of a fire hydrant shall immediately notify the water division.

(b) Each owner of a private fire hydrant shall notify both the fire chief and the ~~water superintendent~~ utilities director if the owner has knowledge that a private water hydrant has been damaged or is inoperable.

Section 24. That section 13.10.480, Water protection fees and clean drinking water fees, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Water protection fees and clean drinking water fees.

Water protection fees and clean drinking water fees shall be imposed, collected, and remitted by the ~~water superintendent~~ utilities director in accordance with K.S.A. 82a-954 and 82a-2101, as may be amended.

Section 25. That section 13.10.490, Rendering of bills, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Rendering of bills.

The water division shall render bills each month based on a monthly ~~or bimonthly~~ reading and a monthly rate, ~~either monthly or bimonthly~~, to all water consumers of the

city for the water consumed, such bill to be mailed or delivered by the water division not later than 10 business days following the date of the reading. All meters shall be read monthly ~~or bimonthly~~, or as near monthly ~~or bimonthly~~ as practicable unless an estimate of consumption is necessary. The base charge for the initial month or final month of service will be prorated for the portion of the month for which service was provided. The initial bill will not be calculated for a period of less than 15 days. In the event the period of service is less than 15 days, the initial bill will be rendered after the end of the following month and will include that month plus the initial period. ~~Meter readings are not required to be taken unless the water has been turned on at least 15 days, but after 15 days the monthly rates will apply.~~ On any service for which, for any reason, a monthly reading was not taken, a period of 45 days to 74 days may be considered two months, a period of 75 days to 104 days may be considered three months, etc. ~~Final bills are computed on a monthly basis, regardless of the number of days since the previous reading.~~ Where it is impossible to read a meter because of meter failure or mechanical defect or when inclement weather prevents meter reading, ~~where a meter has ceased to register, or where a meter is out of order and is, without doubt, registering much less than actual consumption, based on consumption of the previous month or the same month of the previous year,~~ the quantity may be estimated in accordance with the policy established by the utilities director. The water division does not assume the responsibility for speedy and safe delivery of, or failure to receive, the bill; a duplicate may be obtained ~~by calling in person at the~~ utility office, or by telephone.

Section 26. That section 13.10.495, Fees and charges, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Fees and charges.

496 Fees and charges for materials, equipment or services provided by the water
497 division or for loss prevention shall be established by the ~~public works~~utilities director or
498 his or her designee, and approved by the city manager, and set forth on a schedule of
499 fees and charges maintained by the ~~water superintendent~~utilities director. Such fees
500 and charges shall be based on the following factors, including, but not limited to,
501 reimbursing the city for all costs associated with providing the materials, equipment or
502 service and to protect the city from financial loss. The ~~water superintendent~~utilities
503 director shall have the authority to waive service fees and charges to correct errors and
504 settle disputed accounts in accordance with TMC 13.10.030.

505 Section 27. That section 13.10.497, Water system fees, of The Code of the City
506 of Topeka, Kansas, is hereby amended to read as follows:

507 **Water system fees.**

508 Water system fees shall be determined by the ~~public works~~utilities director or his
509 or her designee, and approved by the city manager, and reviewed and adjusted if
510 necessary at least every five years. Such water system fees shall be set forth on a
511 schedule maintained by the ~~water superintendent~~utilities director. Such fees shall be
512 based on the system's value, capacity and demand factors.

513 At the discretion of the city manager or ~~city council~~governing body, as applicable,
514 the water system fees authorized in this section may be waived or modified for
515 economic development projects which offer extraordinary benefits to the city. The city
516 manager shall be authorized to grant a waiver of up to 25 percent of the fees. ~~City~~
517 ~~council~~Governing body approval shall be required for any waiver in excess of 25
518 percent.

519 Section 28. That section 13.10.560, Delinquent utility account – Restoration of

water service, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Delinquent utility account – Restoration of water service.

(a) If a utility account becomes delinquent, water service may be discontinued and shut off pursuant to K.S.A. 12-808c and 12-860, as may be amended, and as defined in water division policies established and maintained by the ~~water superintendent~~ utilities director.

(b) Restoration of water service for delinquent utility accounts shall be in accordance with water division policies established and maintained by the ~~water superintendent~~ utilities director.

Section 29. That section 13.10.580, Unauthorized water service, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Unauthorized water service.

Water service shall only be provided by authorized water division personnel or an authorized agent acting on behalf of the city. If a residence, business or other structure is determined to be connected to the city's water distribution system without authorization by the water division, an unauthorized water service fee may be assessed by the ~~water superintendent~~ utilities director plus any additional costs incurred by the division for the parts and labor to restore service. Water service shall only be restored upon payment in full of the unauthorized water service fee, costs for parts and labor, and any other applicable charges. The amount of the unauthorized water service fee shall be established by the ~~public works~~ utilities director or his or her designee, and approved by the city manager, based upon costs to secure the city from financial loss as determined and set forth on a schedule maintained by the ~~water~~

544 ~~superintendent~~ utilities director.

545 Section 30. That section 13.10.620, Authorization, of The Code of the City of
546 Topeka, Kansas, is hereby amended to read as follows:

547 **Authorization.**

548 The ~~director of the public works department~~ utilities director or his or her designee
549 ~~(referred to in this article as the “director”), or the assistant public works director~~
550 ~~(referred to in this article as the “assistant director”)~~ in the absence of the director, upon
551 ~~the recommendation of the superintendent of the water division,~~ is hereby authorized
552 and directed to implement the applicable provisions of this article upon the
553 determination that such implementation is necessary to protect the public welfare and
554 safety.

555 Section 31. That section 13.10.650, Enforcement – Penalty for violations, of
556 The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

557 **Enforcement – Penalty for violations.**

558 (a) Authority. The ~~superintendent of the water division~~ utilities director and
559 other employees of the water division are authorized to enforce all provisions of this
560 article.

561 (b) First Violation. Any consumer who violates any provisions of this article
562 shall be issued a written notice of the violation. The written notice shall be affixed to the
563 property where the violation occurred and mailed to the consumer of record and to any
564 other person known to the city who is responsible for the violation and its corrections.
565 Such notice shall describe the violation and order that it be corrected, cured or abated
566 immediately or within such specified time as the city determines is reasonable under the
567 circumstances. Failure to receive such notice shall not invalidate further actions by the

city. If the order is not complied with, the city may terminate water service to the customer. If water service is terminated, a charge for disconnection, reconnection and restoration of service shall be made. The charge will be for the actual costs of terminating and restoring service plus the appropriate amount listed below:

(1) Residential: \$50.00.

(2) Commercial/industrial: An amount equal to 100 percent of the average monthly water bills for the previous 12 months.

(c) Second and Subsequent Violations. In the event of additional violations of this article, the city will terminate water service to the consumer and a charge for terminating and restoring service will be made. The charge will be for the actual costs of terminating and restoring the service, plus:

(1) For second violations, the highest of \$200.00 or an amount equal to 200 percent of the average monthly water bills for the previous 12 months.

(2) For any additional violations after the second violation, the highest of \$300.00 or an amount equal to 300 percent of the average monthly water bills for the previous 12 months.

Any customer who has service disconnected pursuant to this section may appeal the cost of terminating and restoring service ~~to the council of the city~~ in accordance with Chapter 2.145 TMC.

(d) Code Violation. Any violation of the water conservation plan shall also be considered a violation of this code and may be punishable by proceedings in municipal court. Each day's violation shall constitute a separate offense and shall be punished accordingly.

Section 32. That section 13.10.670, Prohibitions – Guidelines for

implementation of stages, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Prohibitions – Guidelines for implementation of stages.

No consumer shall knowingly make, cause, use or permit the use of water from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner which is contrary to any provision of this article or in an amount in excess of that use permitted by the conservation stage in effect pursuant to the provisions of this article. The utilities director, ~~in conjunction with the superintendent of the water division,~~ shall promulgate guidelines which set forth criteria for determining when a particular conservation stage is to be implemented or terminated. Such guidelines shall be updated as the conditions of the utility system change.

Section 33. That section 13.15.010, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

The following terms, phrases and abbreviations when used in this chapter and Chapters 13.20, 13.25, 13.30 and 13.35 TMC shall have the meanings ascribed to them in this section unless specifically stated otherwise:

“Accelerated erosion” means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

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

“Administrative Order (AO)” – An order for compliance, issued by the utilities director. May contain compliance schedules and/or fines for additional days of noncompliance.

Types of AOs include consent orders, compliance orders, show cause orders and cease and desist orders.

“Applicant” means a person who has requested approval of a subdivision or site plan.

“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 or duly authorized representative of the user” 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;~~

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

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

(a) If the User is a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management

640 decisions that govern the operation of the regulated facility including having the
641 explicit or implicit duty of making major capital investment recommendations, and
642 initiate and direct other comprehensive measures to assure long-term
643 environmental compliance with environmental laws and regulations; can ensure
644 that the necessary systems are established or actions taken to gather complete
645 and accurate information for individual wastewater discharge permit
646 requirements; and where authority to sign documents has been assigned or
647 delegated to the manager in accordance with corporate procedures.

648 (b) If the User is a partnership or sole proprietorship: a general partner or
649 proprietor, respectively.

650 (c) If the User is a Federal, State, or local governmental facility: a director or
651 highest official appointed or designated to oversee the operation and performance of
652 the activities of the government facility, or their designee.

653 (d) The individuals described in subsections (a), (b) and (c) of this section
654 may designate a Duly Authorized Representative if the authorization is in writing, the
655 authorization specifies the individual or position responsible for the overall operation of
656 the facility from which the discharge originates or having overall responsibility for
657 environmental matters for the company, and the written authorization is submitted to the
658 utilities director.

659 “Beneficial uses” means uses of the waters of the state that may be protected against
660 quality degradation which include, but are not necessarily limited to, domestic,
661 municipal, agricultural and industrial supply, power generation, recreation, aesthetic
662 enjoyment, navigation and the preservation and enhancement of fish, wildlife and other
663 aquatic resources or reserves, and other uses, both tangible or intangible, as specified

by federal or state law.

“Best management practices (BMPs)” means the schedules of activities, practices, and maintenance procedures which prevent or reduce the discharge of pollutants directly or indirectly to the POTW, MS4 and/or to the waters of the United States. BMPs can be structural or nonstructural, and also include treatment facilities and requirements, operating and maintenance procedures, and practices to control plant and construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage, and such other provisions as the ~~superintendent~~utilities director determines appropriate for the control of pollutants.

“Biochemical oxygen demand (BOD)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius, expressed in milligrams per liter, as outlined in Standard Methods 5210 B – 2001 approved in 40 CFR Part 136.

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

“Building” means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 150 square feet of area.

~~“Categorical Pretreatment Standards” or “Categorical Standard” The industrial activity performed at the facility is regulated by one or more of the federal regulations means~~
any regulation containing discharge standards promulgated pursuant to the CWA that apply to a specific category of users. Categorical Pretreatment Standards are found in Title 40 Code of Federal Regulations (40 CFR) Parts 401 - 424 and 425 – 471. The Categorical Pretreatment Standards are applicable if the facility discharges process

wastewater to a POTW. In the EPA Pretreatment Categories and Standards, the categorical activity is assigned pretreatment limitations, reporting requirements, or both.

“Cease and Desist orders” means a cease and desist order directs a noncompliant user to cease illegal or authorized discharges immediately or to terminate its discharge altogether.

“Channel” means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

“City” means the city of Topeka, Kansas.

“Clean Water Act” or “the Act” means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

“Clearing” means any activity that removes the vegetative surface cover.

“Compliance Order” – A compliance order directs the user to achieve or restore compliance by a date specified in the order. It is issued unilaterally and its terms need not be discussed with the industry in advance.

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

“Consent Order (CO)” – Consent order for compliance. Legally enforceable agreement between the City and the industrial violator designed to restore compliance.

“Construction activity” means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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

“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 rights-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, temporary notes or loans; 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.

“Dedication” means the deliberate appropriation of property by its owner for general public use.

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

“Detention” means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

“Detention facility” means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

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

“Developer” means a person who undertakes land disturbance activities.

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

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

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

“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

760 billing purposes.

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

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

768 “Drainage easement” means a legal right granted by a landowner to a grantee allowing
769 the use of private land for stormwater management purposes.

770 “Drainage fee” means a fee authorized by state law and this title which is established to
771 pay operations and maintenance, extension and replacement and debt service.

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

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

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

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

782 “Erosion and sediment control plan” means a document which describes the BMPs and
783 activities to be implemented by a person or business to identify sources of pollution or

contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

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

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

“Fee in lieu” means a payment of money in place of meeting all or part of the stormwater performance standards required by Chapter 13.35 TMC.

“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.

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

“FOG” means Fats, Oils and Grease from animal or vegetable sources.

“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 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.

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

“Hydrologic soil group (HSG)” means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

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

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

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

“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. 1317](#)) into

the POTW (including holding tank waste discharged into the system).

“Industrial activity” means activities subject to NPDES industrial permits as defined in 40 CFR Section 122.26(b)(14).

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

“Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business.

“Infiltration” means the process of percolating stormwater into the subsoil.

“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.

“Jurisdictional wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

“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.

“Landowner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

“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:

(1) “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.

(2) “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.

(3) “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

880 devices are nondischarging storage structures for sanitary waste which
881 have no connection to a lateral field or discharge point. Class 3 liquid waste
882 differs from the other classes of septage as it is chemically stabilized when
883 generated. This liquid waste is typically characterized as having high TSS,
884 BOD5, and TKN.

885 (4) "Class 4 liquid waste" means a liquid waste which is composed primarily
886 of fatty matter from animal or vegetable sources and originates from
887 residential or commercial grease interceptors. Class 4 liquid waste is
888 typically characterized as containing two to five percent FOG, five to 30
889 percent solids and very high organic content.

890 (5) "Class 5 liquid waste" means a liquid waste not defined in the first four
891 categories above and not defined as a hazardous waste. This liquid waste
892 includes liquid waste of industrial, commercial, or other origin including, but
893 not limited to, landfill leachate, wastewater residuals and tanning waste.

894 "Liquid waste hauler" means any person, persons, partnership or corporation which
895 transports liquid, nonhazardous waste.

896 "Local Limit" means specific discharge limits developed and enforced by the utilities
897 director upon industrial or commercial facilities to implement the general and specific
898 discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

899 "Maintenance agreement" means a legally recorded document that acts as a property
900 deed restriction, and which provides for long-term maintenance of stormwater
901 management practices.

902 "Mass emission rate" means the weight of material discharged to the sewer system
903 during a given time interval, which, unless otherwise specified, is measured in pounds

per day of a particular constituent or combination of constituents.

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

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

“Municipal sanitary 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 ~~owned and operated by the city of the POTW~~.

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

~~“National categorical pretreatment standard” or “pretreatment standard” means any regulation which establishes or sets pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317), which applies to a specific category of industrial users.~~

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

“New source” means any building, structure, facility or installation from which there is or

may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided, that such building, structure, facility or installation meets the criteria outlined by 40 CFR 403.3(~~km~~) of the general pretreatment regulations.

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

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

“Nonpoint source pollution” means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

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

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

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

“NPDES” means the National Pollutant Discharge Elimination System.

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

“NPDES industrial general permit for stormwater discharges associated with industrial

activity” or “NPDES industrial general permit” means the industrial general permit including any amendments thereto issued by KDHE which regulates the discharge of stormwater runoff from certain types of industrial activity.

“Offset fee” means a monetary compensation paid to the city of Topeka for failure to meet pollutant load reduction targets.

“Off-site facility” means a stormwater management measure located outside the subject property boundary described in the application for subdivision or site plan approval.

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

“Pass-through” means a discharge which exits the POTW into waters of the United States in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources 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).

“Paint Filter test” means a method used to determine the presence of free liquids in a representative sample of waste by placing a sample in a filter to determine whether excess liquids are present.

“Person” means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any 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 anything which causes or contributes to pollution including, but not limited to, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or 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 Requirements” means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

~~“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~~prohibited discharge standards, Categorical Pretreatment Standards, and Local Limits.

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

“Prohibited Discharge Standards” or “Prohibited Standards” means absolute prohibitions against discharge of certain substances set forth in TMC 13.20.280.

“Publicly owned treatment works (POTW)” means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned ~~in this instance by the city,~~ including 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 and also includes any public sanitary sewer or public combined sewer that convey wastewaters to the POTW from persons outside the city who are users of the city’s POTW~~devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances that convey wastewater to a treatment plant.

“Qualified personnel” means a person who possesses 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.

“Recharge” means the replenishment of underground water reserves.

“Redevelopment” means any construction, alteration or improvement in areas where existing land use is commercial, industrial, institutional or multi-family residential,

previously developed property.

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

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

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

“Show Cause Order” – An order requiring an industrial user to appear at a hearing and show cause why a proposed enforcement action should not be taken.

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

(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

1048 process wastewater for any day during the preceding 12-month period;
1049 (6) Users whose average discharge, measured either by volume of flow,
1050 weight of suspended solids, biochemical oxygen demand, or chemical
1051 oxygen demand, exceeds two percent of the average loading on the
1052 applicable treatment facility; and
1053 (7) Other users determined by the ~~superintendent~~utilities director to require
1054 special regulation or source control.

1055 “Silver associated process” means any process, manufacturing or service related
1056 business which falls within any of the following standard industrial classifications: 2711,
1057 2721, 2731, 2732, 2741, 2751 to 2754, and 8062 under the most recent edition of the
1058 Standard Industrial Classifications ~~Manual issued by the EOP, OMB~~set forth by the
1059 Occupational Safety and Health Administration.

1060 “Slug” means any discharge of wastewater, sewage or industrial waste which, in
1061 concentration of any given constituent or in quantity of flow, exceeds for any 15-minute
1062 period more than five times its average 24-hour concentration or flows during normal
1063 operation.

1064 “Slug Discharge” means any Discharge of a non-routine, episodic nature, including but
1065 not limited to an accidental spill or a non-customary batch Discharge, which has a
1066 reasonable potential to cause Interference or Pass Through, or in any other way violate
1067 the POTW’s regulations, Local Limits or Permit conditions.

1068 “Slug Load” means any discharge at a flow rate or concentration, which could cause a
1069 violation of the prohibited discharge standards in TMC 13.20.280.

1070 “Standard industrial classification” or “SIC” means a classification pursuant to ~~the most~~
1071 ~~recent edition of the~~ Occupational Safety and Health Administration’s Standard

Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget divisions.

“State” means the state of Kansas.

“Stop work order” means an order issued which requires that all construction activity on a site be stopped.

“Storm drainage design criteria” means the storm drainage design criteria chapter found in the current edition of the City of Topeka Design Criteria and Drafting Standards Manual.

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

“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 management” means the use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

“Stormwater pollution prevention plan (SWPPP)” means a document which describes the BMP and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to

the maximum extent practicable, prepared under the supervision of an engineer, geologist, architect, landscape architect or a certified professional in erosion and sediment control.

“Stormwater runoff” means flow on the surface of the ground, resulting from precipitation.

“Stormwater treatment practices (STPs)” means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

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

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

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

“Total suspended solids” means solids that will either float on the surface of or are in suspension with water, sewage or other liquids, and which are removable by ~~laboratory~~ filtering in accordance with Standard Methods 2540 D-1997 and approved in 40 CFR

Part 136.

“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.

“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.

“Unpolluted water” means water to which no pollutant 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 the municipal sanitary sewer system.

“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 municipal sanitary sewer system.

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

“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.

“Watercourse” means a permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

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

“Waters of the United States” means surface watercourses and water bodies as defined at 40 CFR 122.2.

Section 34. That section 13.15.020, Statement of purpose, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Statement of purpose.

The purpose of Chapters 13.15, 13.20, 13.25, 13.30 and 13.35 TMC is to:

(a) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(b) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;

(d) Enable the ~~water pollution control division of the public works~~utilities department to meet water quality requirements, to ensure compliance with any applicable effluent limitations, national standards of performance, toxic pretreatment effluent standards, and other discharge criteria which are required by state and federal law; and

(e) Provide for the issuance of permits to certain users and the establishment of penalties for violation of Chapters 13.15, 13.20, 13.25, 13.30 and 13.35 TMC.

Section 35. That section 13.15.030, Statement of policy, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Statement of policy.

Chapters 13.15, 13.20, 13.25, 13.30 and 13.35 TMC provide for the regulation of contributors to the municipal wastewater system through the issuance of wastewater discharge permits to ~~certain non-domestic~~ significant industrial users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and assumes that existing customers will not be preempted

Section 36. That section 13.15.040, Applicability, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Applicability.

Chapters 13.15, 13.20, 13.25, 13.30 and 13.35 TMC shall apply to the city and to persons outside of the city who are, by contract or agreement with the city, users of the city's publicly owned treatment works (POTW). Except as otherwise provided in this chapter, the ~~superintendent~~ utilities director shall administer, implement, and enforce the provisions of Chapters 13.15, 13.20, 13.25, 13.30 and 13.35 TMC.

Section 37. That section 13.15.100, Powers and duties of the superintendent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Powers and duties of the ~~superintendent~~ utilities director.

The ~~superintendent~~ utilities director shall have the responsibility and authority to ensure compliance with the NPDES permits issued to the city in order to protect the waters of the state of Kansas and the United States.

(a) Specifically, the ~~superintendent~~ utilities director is authorized to perform the necessary construction, repair, maintenance and rehabilitation as is necessary in his judgment to ensure the safe and efficient functioning of the POTW system. Additionally, the ~~superintendent~~ utilities director shall be responsible for the efficient and safe

1192 treatment of all waste at the POTW and the treatment, application or disposal of solid
1193 waste. The ~~superintendent~~utilities director shall also have the authority to regulate
1194 ~~industrial pretreatment~~significant industrial users and the hauling and disposal of liquid
1195 waste.

1196 (b) The ~~superintendent~~utilities director is authorized to perform the
1197 construction, repair, maintenance and rehabilitation as is necessary in his or her sole
1198 judgment to ensure the MS4 system functions safely and efficiently to limit erosion and
1199 protect water quality. This authority shall include the authority for bank stabilization and
1200 clearing obstructions in natural channels and streams. Additionally, the
1201 ~~superintendent~~utilities director shall have the authority to implement drainage correction
1202 to alleviate surface water flooding or erosion. The ~~superintendent~~utilities director shall
1203 have the authority to regulate construction activities, stream buffer regulation, and
1204 excavation.

1205 (c) The remedies provided for in this code are not exclusive. The utilities
1206 director may take any, all, or any combination of these actions against a noncompliant
1207 User. Enforcement of pretreatment violations will generally be in accordance with the
1208 City's enforcement response plan. However, the utilities director may take other action
1209 against any User when the circumstances warrant. Further, the utilities director is
1210 empowered to take more than one enforcement action against any noncompliant User.

1211 Section 38. That section 13.15.110, Notice of violation, of The Code of the City
1212 of Topeka, Kansas, is hereby amended to read as follows:

1213 **Notice of violation.**

1214 (a) Contents of Notice. Whenever the ~~superintendent~~utilities director finds that
1215 any user has violated or is violating any provisions set forth in Chapters 13.20, 13.25,

1216 13.30 and 13.35 TMC, the ~~superintendent~~utilities director may, in accordance with the
1217 city's enforcement response plan, serve notice upon such user which contains the
1218 following:

1219 (1) The street address or a legal description sufficient for identification of the
1220 premises at which the violation is occurring.

1221 (2) A clear statement of violation and code section in violation.

1222 (3) If applicable, notice may contain a statement of the corrective action
1223 required to be taken as determined by the ~~superintendent~~utilities director.

1224 (b) Service of Notice. The notice and any amended or supplemental notice
1225 shall be served upon the owner of record, and one copy thereof shall be served on each
1226 of the following, if applicable, if known or disclosed from official public records: (1) the
1227 tenant in possession or (2) the contractor or other individual named in the permit upon
1228 which work is being done on the premises. The failure of the ~~superintendent~~utilities
1229 director to serve any person required herein to be served shall not invalidate any
1230 proceedings hereunder as to any other person duly served or relieve any such person
1231 from any duty or obligation imposed by the provisions of this section.

1232 (c) Method of Service. Service of the notice shall be made upon all persons
1233 entitled either personally or by mailing a copy of such notice by certified mail, postage
1234 prepaid, return receipt requested, to each such person at their address as it appears on
1235 the register of deeds, Shawnee County records or at the address listed in the permit or
1236 under which the work is being done. If the location of such person is unknown or if no
1237 address of such person so appears after diligent effort, then copies of such notice shall
1238 be mailed by first class mail to the individual at the address of the real property at which
1239 the violation is occurring, and a copy of such notice shall be published once in the

official city paper. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of receipt.

Section 39. That section 13.15.120, Enforcement methods, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Enforcement methods.

The following enforcement methods shall apply to provisions set forth in Chapters 13.20, 13.25, 13.30 and 13.35 TMC.

(a) Abatement of Nuisance. Once the property owner has been given notice and opportunity to correct the violations and then failed to do so, the city shall be authorized to abate the violation in accordance with K.S.A. 12-1617e, as amended, which may result in a service assessment and lien imposed pursuant to TMC 3.45.090 et seq. or K.S.A. 12-6a17 and amendments thereto.

(b) Emergency Provisions.

(1) Immediate Abatement. The ~~superintendent~~utilities director is authorized to require immediate abatement of any violation of the provisions set forth in Chapters 13.20, 13.25, 13.30 and 13.35 TMC that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the ~~superintendent~~utilities director, the city may abate the violation. Any costs of abating incurred by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized under this article.

(2) Emergency Shut-Off Water. In addition to any other remedies available

under this article, the ~~superintendent~~utilities director shall be authorized to order the shut-off of water to the property to eliminate an immediate threat to the health, safety, or well-being of the public.

(3) Placarding. Whenever the ~~superintendent~~utilities director determines that there has been a violation of any provisions set forth at Chapter 13.20, 13.25, 13.30 or 13.35 TMC or has reasonable grounds to believe that a violation has occurred that is an immediate threat to the health, safety, or well-being of the public, the ~~superintendent~~utilities director shall have the authority to order the immediate removal of persons from their property and shall give notice to the owner or the person or persons responsible therefor in the manner prescribed below. Such written notice shall contain the following:

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

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

(iii) If applicable, notice may contain a statement of the corrective action required to be taken as determined by the ~~superintendent~~utilities director.

(4) Stop Work Order.

(i) Authority. Whenever the ~~superintendent~~utilities director finds any construction activity being performed is either in violation of the provisions set forth in Chapters 13.20, 13.25, 13.30 and 13.35 TMC, applicable permit, or is dangerous or unsafe, the ~~superintendent~~utilities director is authorized to issue a stop work order.

(ii) Issuance. The stop work order shall be in writing and shall be given

to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

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

(5) Injunctions. Whenever a violation of the provisions set forth in Chapter 13.20, 13.25, 13.30 or 13.35 TMC causes or threatens to cause a condition of contamination, pollution or nuisance, the ~~superintendent~~utilities director 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 violation.

(6) Injunctive Relief. When the utilities director finds that a User has violated, or continues to violate, any provision of Chapters 13.20, 13.25, 13.30 and 13.35 TMC, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the utilities director may petition the district court through the City Attorney or such other attorney engaged by the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, or other requirement imposed by this ordinance on activities of the User. The utilities director may also

1312 seek such other action as is appropriate for legal and/or equitable relief, including
1313 a requirement for the User to conduct environmental remediation. A petition for
1314 injunctive relief shall not be a bar against, or a prerequisite for, taking any other
1315 action against a User.

1316 (7) Administrative Orders. The utilities director may issue an order
1317 directing a user to take certain action to resolve any violations. Orders may
1318 contain any requirements reasonably necessary and appropriate to address the
1319 noncompliance, including but not limited to, the installation of treatment
1320 technology, conducting additional self-monitoring and implementing best
1321 management practices. Orders may include a consent order, compliance order,
1322 show cause order, or a cease and desist order.

1323 (8) The utilities director shall annually publish in the official city
1324 newspaper or such other official city publication a list of the industrial users that
1325 were in significant non-compliance of any pretreatment requirements or
1326 standards, during the previous calendar year. The notification shall also
1327 summarize any enforcement actions taken against an industrial user, by the city,
1328 during the same twelve (12) months.

1329 Section 40. That section 13.15.130, Administrative search warrants, of The
1330 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

1331 **Administrative search warrants.**

1332 If the ~~superintendent~~utilities director has been refused access to a building,
1333 structure or property, or any part thereof, and if the ~~superintendent~~utilities director has
1334 demonstrated probable cause to believe that there may be a violation of the provisions
1335 set forth in Chapter 13.20, 13.25, 13.30 or 13.35 TMC or that there is a need to inspect

the property to verify compliance with the provisions of Chapter 13.20, 13.25, 13.30 or 13.35 TMC or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then, upon application to a district court judge, the ~~superintendent~~utilities director 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 the ~~superintendent~~utilities director.

Section 41. That section 13.15.140, Administrative monetary penalties, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Administrative monetary penalties.

When the utilities director finds that a user has violated, or continues to violate, any provision of Chapters 13.20, 13.25, 13.30 and 13.35 TMC, an individual wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the utilities director may impose on such user an amount not to exceed the maximum penalty as outlined below. Such administrative monetary penalties shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, administrative monetary penalties shall be assessed for each day during the period of violation. The ~~superintendent~~utilities director shall have the authority to impose the following administrative monetary penalties:

(a) The following administrative monetary penalty shall apply to violations of the provisions relating to construction activity, erosion and sediment control and stormwater management practices in Chapters 13.20, 13.25, 13.30 and 13.35 TMC:

(1) Fifty dollars per violation for a first violation.

(2) One hundred dollars per violation for a second violation within a

continuous 12-month period of the first violation.

(3) Two hundred dollars per violation for a third or subsequent violation within a continuous 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 Chapter 13.20, 13.25, 13.30 or 13.35 TMC~~ the POTW:

(1) One hundred dollars per violation for a first violation.

(2) Five hundred dollars per violation for a second violation within a continuous 12-month period of the first violation.

(3) One thousand dollars per violation for a third or subsequent violation within a continuous 12-month period of the two previous violations.

(c) Notwithstanding the forgoing, the utilities director shall have the authority to impose an administrative monetary penalty of up to \$1000 for a single violation which materially inhibits or disrupts the POTW or causes it to violate a requirement under its NPDES permit.

Section 42. That section 13.20.100, Connection required – Enforcement, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Connection required – Enforcement.

(a) It shall be the duty of every person owning any dwelling house or any other building within the city to make connections with the public sanitary sewer for the purpose of disposing of all substances from any such building, affecting the public health which may be lawfully and properly disposed of by means of such sewer. Connection with the public sanitary sewer is required when the main or lateral sewer is

adjacent to the property and one or more of the following conditions exist:

(1) The septic system serving the property constitutes a public nuisance.

The utilities director of ~~public works~~ for the city is hereby designated to determine when a septic system is a public nuisance; and/or

(2) The property changes ownership; and/or

(3) Modifications are made to the main structure located on the property that requires issuance of a building permit; and/or

(4) Within five years of the construction of the public main or lateral sanitary sewer, such time not starting any sooner than the effective date of this chapter.

(b) Failure to Connect/Service Assessment. If any person shall fail, neglect or refuse to connect any such building with the sewer system as provided by this article for more than 30 calendar days or in the case of public nuisance for more than 10 days after being notified in writing by the department of public works or their designee to do so, the city may advertise for bids for the construction and make contracts therefor to the lowest responsible bidder and may cause such buildings or premises to be connected with the sewer system and may assess the cost of expense including any applicable connection fees thereof against the property and premises so connected, such assessment to be made in the same manner as other special assessments are made. The city and its designated representatives shall have the right of entry onto properties for the purposes set forth in this article.

(c) Extension of Time to Connect. The ~~council~~city manager may extend the time to make connection with the public sanitary sewer if city administered loan money for qualifying property owners is not available at the written request of the person

owning the dwelling or other building and the requester is a qualified property owner.

Section 43. That section 13.20.120, Size, location, plans, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Size, location, plans.

The utilities director shall have the city engineer ~~shall~~ or other engineer lay out and determine the size, location and grade, and make all necessary plans, specifications, requirements and estimates, for all sewers within the main sewer districts and sewer subdistricts heretofore designated or hereafter created and designated and file the same in the engineer's office for the use of the city, and at the expiration of the term of office deliver the same intact to the successor. When the city engineer or other engineer does not have sufficient staff or the improvement is of such nature as to require special knowledge or experience, the ~~public works~~ utilities director may enter into a contract with consulting engineers for the engineering work, such work to be approved by the city engineer or other engineer.

Section 44. That section 13.20.130, Permit - Required, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Permit – Required.

(a) No sewer or drain of any kind shall be connected with the sewers constructed under authority of the city within any of the main sewer districts or sewer subdistricts of the city, except by written permission of the city engineer and by compliance with all the rules, regulations and specifications provided for the proper construction and maintenance of such sewers or drains.

(b) Any person owning property within the city limits, which property is not within any lateral sanitary sewer district theretofore created, desiring to make

connection to the sanitary sewage system, shall make application for a permit to the city engineer utilities department.

Section 45. That section 13.20.150, Sanitary sewer failures and repair responsibilities, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Sanitary sewer failures and repair responsibilities.

(a) The maintenance and repair of a building service line and its connection with the city sewer main is the responsibility of the owner of the property it serves. It is therefore the responsibility of the property owner to make repairs if there is a failure in the building service line or the wye connection to the city sewer main and the responsibility of the city if there is a failure in the city sewer main. The first indication of sewer failure or potential failure may vary. It is the intention of the water pollution control division to cooperate with the individual property owners and the plumbers in the resolution of these sanitary failures within the following guidelines.

(b) Sewer Failure – Excavation.

(1) Settlement of Ground Surface. In some cases failure of a sewer line is first indicated by settlement of the ground surface near a failure. This can happen before there is any apparent malfunction in either the building service line or the city sewer main. When this occurs over or near the connection of the building service line to the city sewer main, it is not always possible to determine before excavation whether the failure is in the building service line, the city sewer main, or both. If there is no indication at this time that the building service line has failed, the water pollution control division will make an attempt to determine the problem by inspection of the city sewer main. If the problem is with the city sewer

main, or if the city is unable to inspect the city sewer, the division will make the initial excavation to determine the source of the problem.

(2) Sewer Stoppage/Backup. If the backup of sewage is the first indication of failure, the water pollution control division will assist by investigating to determine if there is a stoppage in the city sewer main.

(i) If the city sewer main has deteriorated to the point where it appears to be the source of the problem or if the city sewer main contains a stoppage that cannot be removed by conventional methods, then the water pollution control division will make the initial excavation to determine the extent of the failure.

(ii) If the city sewer main is not obstructed, but is open and flowing, and the private sewer line has failed, it then becomes the responsibility of the property owner to make the necessary repairs within seven days. In this case, the water pollution control division will not make the initial excavation.

(3) Excavation Requirement. It shall be the total responsibility of the party making the excavation to make it of adequate size for water pollution control division personnel to work safely for inspection of the sewer and/or repairing of the wye connection.

(c) Sewer Repairs.

(1) City Sewer Is Broken. If the city sewer main is broken or in such poor condition that it is impractical to make a new wye connection (except where the city sewer main was broken during excavation by others), then the water pollution control division will provide the following services:

- 1480 (i) Make the additional excavation required to remove the damaged
1481 pipe and replace the broken section(s) of pipe.
- 1482 (ii) Install a new wye connection thereto and pour a concrete base
1483 under the city sewer or provide adequate support.
- 1484 (iii) If the material removed from the hole is unacceptable for
1485 backfilling, the water pollution control division will furnish new backfill
1486 material.
- 1487 (iv) Haul off any excess dirt or other material unacceptable for
1488 backfill.
- 1489 (v) Remove any debris left on city property.
- 1490 (vi) Replace the surfacing.
- 1491 (vii) If the initial excavation was made by the property owner(s), the
1492 water pollution control division may share in the cost, depending upon the
1493 reason for the initial excavation.
- 1494 (2) Broken Wye. If the wye connection itself is broken at the city sewer
1495 main, the private sewer line has also failed and the city sewer is in good
1496 condition, the water pollution control division will also haul off any excess dirt or
1497 other material unacceptable for backfill and remove any debris left on city
1498 property. The water pollution control division may participate in the cost of
1499 additional items of work where the cost is excessive due to surfacing or deep
1500 sewers. It is the responsibility of the property owner(s) to hire a plumber to install
1501 the private sewer line(s), replace the backfill material and compact it in
1502 accordance with engineering department standards.
- 1503 (3) City Sewer Intact.

(i) If the city sewer main and the wye connection itself are intact and only the private sewer line(s) is damaged, the water pollution control division has no responsibility and therefore will not assist in or pay for any portion of the repair work. In such cases, the ~~water pollution control superintendent~~utilities director or designee shall direct the property owner, from which the building service line extends, to repair the service line within seven days.

(ii) The property owner may, through written request, authorize the water pollution control division to cause the private sewer line to be repaired and reimburse the water pollution control division for any cost and expenses incurred therewith.

(iii) The water pollution control division shall exercise diligence, including sending a certified letter, return receipt requested, in attempting to locate and direct the property owner to repair the service line. However, if said property owner cannot be located or if said property owner fails to secure the service of a contractor to repair the private sewer service line within 72 hours of having received notice from the ~~superintendent~~utilities director, then the water pollution control division ~~shall~~ may cause the private sewer line, situated in the public right-of-way, to be repaired and excavation backfilled. The said property owner shall be responsible for any cost and expenses incurred in connection with said repair.

(iv) The water pollution control division shall submit a bill to the owner of any property for which it caused a private sewer line to be repaired. In the event the owner of any property for which the water

pollution control division has caused replacement or repair of a private sewer service line shall neglect, fail or refuse to pay the cost or expenses incurred by the water pollution control division, such charges shall constitute a lien upon the real estate from which the private sewer line extends, and shall be certified by the city clerk to the county clerk, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are by law collectable.

(v) The officials of the utilities department ~~of public works~~ shall be authorized to inspect any sewer repair work done in public right-of-way or easement pursuant to the provisions of this section.

Section 46. That section 13.20.160, Settling, collapse of public ways due to faulty sewer installation – Repairs – Costs, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Settling, collapse of public ways due to faulty sewer installation – Repairs – Costs.

(a) Whenever officials of the city's ~~public works~~ utilities department investigate any localized settlements or collapses in public streets, easements, alleys or rights-of-way and determine that such settlement or collapse has occurred due to inadequacies of a public sewer line, then the water pollution control division ~~shall~~ may make or cause to be made immediate repairs and backfill the excavation. However, if the settlement or collapse is found to have resulted from inadequacies in a private sewer line, then the ~~water pollution control division superintendent~~ utilities director or designee shall direct the property owner from which the building service line extends to repair the service line within seven days.

(b) The property owner may, through written request, authorize the water pollution control division to cause a private sewer line to be repaired and reimburse the water pollution control division for any cost and expenses incurred therewith.

(c) The water pollution control division shall exercise diligence, including sending a certified letter, return receipt requested, in attempting to locate and direct the property owner to repair the service line. However, if such property owner cannot be located or if such property owner fails to secure the service of a contractor to repair the private sewer service line within 72 hours of having received notice from the ~~superintendent~~ utilities director, then the water pollution control division ~~shall~~ may cause the private sewer line situated in the public right-of-way to be repaired and excavation backfilled. The property owner shall be responsible for any cost and expenses incurred in connection with such repair.

(d) The water pollution control division shall submit a bill to the owner of any property for which it caused a private sewer line to be repaired. If the owner of any property for which the water pollution control division has caused placement or repair of a private sewer service line shall neglect, fail or refuse to pay the cost or expenses incurred by the water pollution control division, such charges shall constitute a lien upon the real estate from which the private sewer line extends, and shall be certified by the city clerk to the county clerk, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are by law collectable.

(e) The officials of the utilities ~~department of public works~~ shall be authorized to inspect any sewer repair work done in public rights-of-way or easements pursuant to the provisions of this section.

Section 47. That section 13.20.170, Approval of connections by engineer –

Compliance with applicable laws, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Approval of connections by engineer – Compliance with applicable laws.

Sewer service to property outside of the city may be connected to the city sewage system or to sewers belonging to another but emptying into the city sewage system only with the approval of the ~~city engineer~~ utilities director. Such sewer service connections shall comply with all applicable ordinances, specifications, rules and regulations of the city.

Section 48. That section 13.20.190, Sewer districts - Application, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Sewer districts – Application.

Any sewer district outside of the city may apply to the utilities department of ~~public works~~ for permission to connect to the city sewage system and to empty sewage therein. Such application shall contain among other things a statement on the part of any applicant that the applicant agrees to be governed by the terms of this chapter and amendments thereto and any additional agreements which may be entered into between the applicant and the city.

Section 49. That section 13.20.200, Sewer districts – License or contract, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Sewer districts – License or contract.

If an application is made as provided for in TMC 13.20.190, the utilities director of ~~public works~~ shall consider the application and may grant permission for connection to the city sewage system conditioned by the terms of this chapter and such ordinances, rules and regulations or resolutions as are made applicable thereto. Such permission

shall become operative upon entering into a contract. The contract shall have no term but shall be revocable by the city at any time on 10 days' written notice to the licensee, and any such revocation shall state a reasonable number of days at the end of which the licensee shall have disconnected from the city sewage system.

Section 50. That section 13.20.220, Sewer service to owner of real property outside city limits – Requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Sewer service to owner of real property outside city limits – Requirements.

Real property that is located outside of the city's boundaries may be eligible for sewer service if the property meets the requirements in subsections (a) and (b) of this section.

(a) Annexation. The property to be served is annexed into the city unless the property owner consents to annexation and one of the following applies:

(1) There is an imminent threat to public health and safety as determined by the Kansas Department of Health and Environment or a similar regulatory agency, or a court of law. However, this exemption does not apply to property located between the original location of the public infrastructure and the property to be served.

(2) Connection to public infrastructure will promote an industrial development project within the employment tier of the urban growth area or outside the urban growth area consistent with the comprehensive plan.

(3) The parcels were created before February 15, 2007, in accordance with both the subdivision regulations and zoning in effect at the time of their creation, and sewer infrastructure, not including transmission lines, is adjacent to

the property to be served.

(4) The city has agreed to provide sewer service to the property owner by virtue of the following: (i) a contract; (ii) approval of a final plat prior to February 15, 2007, which includes sewer service; or (iii) an approved plat meeting the comprehensive plan's urban growth area design standards and compliance with the zoning that was in effect on March 16, 2015.

(5) The city has previously provided sewer service to the same parcel of real estate for which service has been requested. The reconnection of service shall be limited to the same size of service line as the previous service. Further, the reconnection shall be limited to the same number of lines or connections which previously existed.

(6) Service is requested by a facility owned and operated by a political and taxing subdivision.

(b) Platting. The property to be served is platted consistent with the design standards and development policies contained in the adopted elements of the comprehensive plan unless all of the following conditions exist:

(1) A detached single-family dwelling is located on the property and there are no other structures except permitted accessory structures.

(2) Adequate utility and drainage easements and/or street rights-of-way exist, as determined by the utilities director ~~of public works~~ or designee, or such easements are provided by the property owner.

(3) There are no existing or anticipated drainage problems related to the site or the development.

(4) Adequate public utilities service the property.

(5) Existing or proposed improvements comply with all applicable zoning and development code requirements.

Section 51. That section 13.20.230, Agreement for annexation for future connections, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Agreement for annexation for future connections.

(a) Findings. The following findings pertaining to sewage collection facilities and services out of the city limits are hereby made and declared:

(1) The city has in the past contracted with the board of county commissioners to allow county sewer districts to connect to the city sewage collection system;

(2) The city is providing a municipal service to these county sewer districts without the collection of any tax money;

(3) Many residents of the county sewer districts earn their living in the city and use its municipal facilities; and

(4) The city does not have adequate control over the quality of construction of facilities constructed outside of the city limits.

(b) Policy. Based on the findings made and declared in subsection (a) of this section, it is hereby declared to be the policy of the city that connection to the city sewage collection system of any additional sewer house lines, lateral sewers, sewer mains or sewer districts located outside the city limits will be conditional upon either annexation or consent to annexation of the area to be served, as determined by the city of Topeka ~~public works~~utilities director after review by the planning director.

Section 52. That section 13.20.240, Combined sewers not to be approved, of

The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Combined sewers not to be approved.

No request or petitions for construction of combined sewers will be considered or approved by the ~~public works~~utilities department.

Section 53. That section 13.20.260, Prohibitions on storm drainage and groundwater, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Prohibitions on storm drainage and groundwater.

(a) Disposal of stormwater, groundwater, street drainage, subsurface drainage, yard drainage, foundation drains on construction directly or indirectly to any sanitary sewer will not be allowed unless a permit is issued by the utilities department ~~of public works~~. The department may approve such discharge only when no reasonable construction is available or such water is determined to constitute a pollution hazard. Storm drainage and groundwater as described above shall be discharged into such storm sewers as are reasonably available and specially designed for such purpose or into a natural watercourse. No such waters shall be discharged or disposed of in any manner causing or tending to create a public nuisance upon any private premises in the city or upon any public street, alley or public grounds in the city.

(b) If the approval is granted for the discharge of such waters referred to in subsection (a) of this section into the sanitary sewers, the user shall measure such discharges and pay the applicable wastewater service charges and meet such other conditions that may be required by the department.

(c) The existing wastewater collection system shall not be used to drain water from the trench during construction of any new sanitary sewer. The connection between

the new system being constructed and the existing system shall not be made until the new system has been inspected and approved. When portions of the system are approved and put into service prior to completion of the entire project, the incomplete lines shall be plugged to prevent water in the trench from entering the existing sewage collection system.

Section 54. That section 13.20.270, Prohibition on unpolluted water, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Prohibition on unpolluted water.

(a) Unpolluted water, including but not limited to noncirculated cooling water, process water or blow-down from cooling towers or evaporative coolers or any other unpolluted water, will not be permitted to be discharged through direct or indirect connection to a sanitary sewer without written approval of the utilities department ~~of public works~~. The department may approve the discharge of such water only when no reasonable alternative method of disposal is available.

(b) If approval is granted for the discharge of unpolluted water to a sanitary sewer, the user shall measure such discharge and pay the applicable wastewater service charges and fees and shall meet such other conditions as may be required by the department.

Section 55. That section 13.20.280, Unlawful waste discharges in sanitary sewer, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Unlawful waste discharges in sanitary sewer.

(a) No user of the POTW shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or

performance of the POTW or cause Interference or Pass Through. These general prohibitions apply to all such users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(b) A user may not contribute the following substances to the POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over 10 percent of the lower explosive limit (LEL) of the meter. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, and any pollutant which creates a fire hazard or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as but not limited to grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissue, paunch manure, bones, hair, hides or fleshings, entrails, whole bloods, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gasoline, tar,

1744 asphalt, residues, residues from refining or processing of fuel or lubricating oil,
1745 mud or glass grinding or polishing waste.

1746 (3) Any wastewater having a pH of less than 5.5 or greater than 10.8, or
1747 wastewater having any other corrosive property capable of causing damage or
1748 hazard to structures, equipment and/or personnel of the POTW.

1749 (4) Any wastewater containing pollutants in sufficient quantity, either singly
1750 or by interaction with other pollutants, to injure or interfere with any wastewater
1751 treatment process, constitute a hazard to humans or animals, create an
1752 interference in the receiving waters of the POTW, or to exceed the limitation set
1753 forth in a categorical pretreatment standard. Such pollutants shall include but not
1754 be limited to any pollutant identified pursuant to Section 307(a) of the Act.

1755 (5) Any pollutants which result in the presence of toxic gases, vapors or
1756 fumes within the POTW in a quantity that may cause acute worker health and
1757 safety problems.

1758 (6) Any substance which may cause the POTW's effluent or any other
1759 product of the POTW such as residues, sludges or scums to be unsuitable for
1760 reclamation and reuse or to interfere with the reclamation process. In no case
1761 shall a substance discharged to the POTW cause the POTW to be in
1762 noncompliance with sludge use or disposal criteria, guidelines or regulations
1763 developed under Section 405 of the Act, any criteria, guidelines or regulations
1764 affecting sludge use or disposal developed pursuant to the Solid Waste Disposal
1765 Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria
1766 applicable to the sludge management method currently being used by the city.

1767 (7) Any substance which will cause the POTW to violate its NPDES and/or

state discharge system permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as but not limited to dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).

(10) Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentrations, quantities or flow during normal operation.

(11) Any wastewater containing any radioactive waste or isotope of such half-life or concentration as may exceed limits established by the ~~superintendent~~ utilities director in compliance with applicable state or federal regulations.

(12) Any wastewater which causes a hazard to human life or creates a nuisance.

(c) When the ~~superintendent~~ utilities director determines that a user is contributing to the POTW any of the above-enumerated substances in such amounts as to interfere with the operation of the POTW, the ~~superintendent~~ utilities director shall:

(1) Advise the user of the impact of the contribution on the POTW; and

(2) Develop effluent limitations for such user to correct the interference

with the POTW.

The utilities director will adopt and enforce an Enforcement Response Plan, if required.

Section 56. That section 13.20.290, Federal categorical pretreatment standards, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Federal categorical pretreatment standards.

Upon a new promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations and/or requirements imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The ~~superintendent~~utilities director shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. Conversely, any state or local limitations and/or requirements shall apply if the state or local limitation is more stringent than the federal limitations and/or requirements.

Section 57. That section 13.20.300, Limitations – Wastewater strength, of The Code of the City of Topeka, Kansas, is hereby 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.~~The utilities director is authorized to establish Local Limits pursuant to 40 CFR 403 5(c). The director shall administratively establish Local Limits for those pollutants that may cause a Pass Through or Interference.

(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.~~The director may develop BMPs in individual wastewater discharge permits to implement Local Limits and the requirements of TMC 13.20.280 this section (TMC 13.20.300).

~~(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.~~

~~(dc)~~ 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~~utilities director reserves the right to define numerical discharge permit limits as outlined in this chapter for any parameters as may be needed to protect the POTW system.

~~(ed)~~ 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~~that will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).

(2) Having a pH lower than 5.5 or higher than 10.8.

(3) Having any water or waste containing fats, wax, grease or oils excluding soy or vegetable oil, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius).

(4) Having any water or waste containing soy or vegetable oil emulsified or not in excess of 150 mg/l.

(5) Containing petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass-through.

Section 58. That section 13.20.330, Limitations – Point of discharge, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Limitations – Point of discharge.

No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through a building sewer approved by the utilities department ~~of public works~~. However, upon written application by the user and payment of the applicable wastewater service charges and fees, the department may grant permission for such direct discharges at approved locations.

Section 59. That section 13.20.380, Monitoring facilities, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Monitoring facilities.

(a) When required by the city, the owners of any property served by the sewage collection system shall install a suitable control manhole for sampling and measuring devices, if necessary, to facilitate observation, measurement and sampling of the wastewater. Such manhole shall be accessible, safely located and shall be constructed in accordance with the department's requirements and all applicable local

agency construction standards of quality. The cost of construction of the manhole and installation of the measuring and sampling accessories shall be at the expense of the owner.

(b) There shall be ample space in or near each sampling manhole to allow accurate collection in compositing of the wastewater samples for analysis. The measuring equipment and accessories shall be made available for use of department personnel on request at no expense to the city. When specialized equipment is required to collect the samples of wastewater from the manhole because of the peculiar characteristics of the individual manhole, the user shall make the equipment available to department personnel upon request at no expense to the city. There shall be no restrictions on the sharing of the sampling and measuring equipment in the sampling manholes of the different users nor upon the users' right to contract with an independent firm to perform this service.

(c) If a water supply is used other than the city water supply, the city may require that such meters as are deemed necessary by the city be installed on such supplemental water supply. During the period of installation of additional equipment, manholes, etc., the city shall estimate as accurately as possible the volume and strength of the wastewater.

(d) The monitoring facility should normally be situated on the user's premises, but when such a location would be impractical or cause undue hardship on the user, the water pollution control division may recommend to the utilities director ~~of public works~~ that the user be allowed to construct the facility in the public right-of-way and locate it so it will not be obstructed by landscaping or parked vehicles. Construction shall be completed within a specified time following written notification by the department.

(e) It shall be unlawful for any person to cover up or bury any existing manhole cover with dirt, rock, surfacing, bituminous surfacing, concrete or other material or obscure the location so that the manhole cannot be found or is not accessible for sewer maintenance. Cost of regrading or rebuilding the manhole, including resurfacing of the adjacent street or alley, may be charged to the person responsible.

Section 60. That section 13.20.370, Dilution of discharges, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Dilution of discharges.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment in order to achieve compliance with ~~the limitations contained in the federal categorical pretreatment standards or in any other pollutant-specific limitation developed by the city or state~~ a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The utilities director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is warranted.

Section 61. That section 13.20.400, Accidental discharges, slug loads or treatment bypass, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Accidental discharges, slug loads or treatment bypass.

(a) Each discharger shall provide protection from accidental discharge and/or slug loads of prohibited materials or other wastes regulated by this chapter. Users shall submit oral notice to the water pollution control division ~~within 24 hours~~ immediately from

the time the user becomes aware of the accidental discharge, slug discharge or treatment bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain:

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

(2) The exact date and time of the accidental discharge, slug load or treatment bypass;

(3) The exact date and time of correction and volume of the accidental 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 ~~superintendent~~utilities director 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~~utilities director, 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.

Section 62. That section 13.20.410, Wastewater discharge permit, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Wastewater discharge permit; Required.

~~All significant industrial users shall be required to obtain a wastewater discharge permit before connecting to or discharging into a sanitary sewer.~~

(a) No significant industrial user shall discharge wastewater into the POTW

1960 without first obtaining an individual wastewater discharge permit.

1961 (b) The utilities director may require other users to obtain individual
1962 wastewater discharge permits as necessary to carry out the purposes of this chapter.

1963 (c) Any violation of the terms and conditions of an individual wastewater
1964 discharge permit shall be deemed a violation of this chapter and subject the wastewater
1965 discharge permittee to the enforcement actions including administrative monetary
1966 penalties set out in this chapter. Obtaining an individual wastewater discharge permit
1967 does not relieve a permittee of its obligation to comply with all federal and state
1968 pretreatment standards or requirements or with any other requirements of federal, state
1969 and local law.

1970 Section 63. That section 13.20.420, Optional permits, of The Code of the City of
1971 Topeka, Kansas, is hereby amended to read as follows:

1972 **Optional permits.**

1973 ~~(a) The superintendent of the water pollution control division~~utilities director
1974 may issue a wastewater discharge permit to any user in accordance with the terms of
1975 this article in the following categories:

1976 (1) A user who requires an estimation of wastewater flow by the water
1977 pollution control division.

1978 (2) Any person whose wastewater strength is less than the normal range
1979 of wastewater strength because of pretreatment, process changes or other
1980 reasons.

1981 (3) Any user identified in the Occupational Safety and Health
1982 Administration's Standard Industrial Classification Manual, 1972, Office of
1983 Management and Budget, as amended and supplemented, under the following

divisions as follows:

(i) Division A – Agriculture, Forestry and Fishing.

(ii) Division B – Mining.

(iii) Division D – Manufacturing.

(iv) Division E – Transportation, Communications, Electric, Gas,
and Sanitary Services.

(v) Division I – Services.

(b) A user in the divisions listed in subsection (a) of this section may be excluded if it is determined that they will introduce only segregated domestic wastes or wastes from sanitary conveniences.

Section 64. That section 13.20.430, Application, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Wastewater discharge permit; Application.

Users seeking a wastewater discharge permit shall complete and file with the ~~superintendent~~utilities director an application in the form prescribed by the ~~superintendent~~utilities director and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

(a) Name and address of applicant.

(b) Volume of wastewater to be discharged.

(c) Constituents and characteristics of strength of the wastewater, including but not limited to those contained in TMC 13.20.280 and 13.20.300 concerning unlawful waste discharge and limitations on wastewater strength.

(d) Time and duration of discharge.

(e) Average and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.

(f) A plat showing location and size of building sewers, sampling points, pretreatment facilities, public sewer and other pertinent details.

(g) General description of activities, facilities and plant processes on the premises, including either the principal product and the quantity per day produced or the principal raw material and the quantity per day consumed.

(h) The standard industrial classification rating describing the applicant's facilities.

(i) Number of employees and hours of work.

(j) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

(k) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment; the completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to

meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in subsection (k)(1) of this section shall exceed nine months.

(3) The user shall submit a progress report to the water pollution control division no later than 14 days following each date in a compliance schedule, and on the final date for compliance, the user shall submit a progress report to the ~~superintendent~~utilities director including, as a minimum, whether or not the user complied with the increment of progress to be met on such date and, if not, the date on which the user expects to comply with the increment of progress, the reason(s) for the delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the ~~superintendent~~utilities director.

(l) A certification statement by an authorized representative of the industrial user in accordance with 40 CFR 2403.12(l).

Section 65. That section 13.20.440, Evaluation and acceptance, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Evaluation and acceptance.

The ~~superintendent~~utilities director will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the ~~superintendent~~utilities director shall issue a wastewater discharge permit subject to terms and conditions provided in this article; provided, that the permit

applicant meets all the required criteria.

Section 66. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 13.20.445, which said section reads as follows:

Appeal.

Appeals from notices of violation, imposition of administrative monetary penalties or enforcement activities including, but not limited to, the denial or revocation of a waste water discharge permit shall be in accordance with the administrative appeal procedure set forth in Chapter 2.145 TMC.

Section 67. That section 13.20.450, Conditions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Conditions~~Wastewater discharge permits; Contents.

(a) Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, rates and charges established by the department.

(a) Permits ~~may~~shall contain the following:

(1) ~~The unit charge or schedule of service charges and fees for the wastewater to be discharged to the sanitary sewer.~~A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date as set forth in TMC 13.20.470.

(2) ~~The average and maximum strength, characteristics or constituents of the user's wastewater discharge in accordance with general pretreatment standards, categorical pretreatment standards, local limits and state and local law.~~A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with TMC 13.20.480 and provisions for

furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

~~(3) Limits on rate and time of discharge or requirements for flow regulation and equalization.~~ Effluent limits, including BMPs, based on applicable Pretreatment Standards.

~~(4) Installation of inspection and sampling facilities including city access to such facilities.~~ Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

~~(5) Pretreatment requirements.~~ A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

~~(6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards of tests and reporting schedule; methods of sampling and analysis are to comply with federal regulations contained within 40 CFR 136 of the Federal Register.~~ Requirements to control Slug Discharge, if determined by the utilities director to be necessary.

~~(7) Submission of technical reports or discharge reports.~~

~~(8) Maintaining plant records relating to wastewater discharge as specified by the department, and affording department access thereto.~~

~~(9) Other conditions as necessary to ensure compliance with this~~

chapter and all other regulations established by the city, as a result of state or federal laws.

~~(10) When nonbiodegradable toxicants are proposed or present in the user's wastewater discharge, discharge rates shall be specified in the permit. Pretreatment or control of nonbiodegradable toxicants to conform to the discharge rates as prescribed shall be achieved at or as near to the source of discharge as practicable.~~

~~(11) The inclusion of a compliance schedule for the purpose of obtaining the technology needed to achieve the required discharge status from the industrial user.~~

~~(12) Statement of applicable penalties in the event of noncompliance.~~

(b) Permits may contain, but are not limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit [or the general permit; and

(8) Other conditions as deemed appropriate by the utilities director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(b) The ~~superintendent~~utilities director may change the conditions of a wastewater discharge permit from time to time as laws and regulations enacted by the state or federal government may require. Whenever the discharge from any user is causing excessive operation or maintenance problems in the sewage collection system or the wastewater treatment plant, the ~~superintendent~~utilities director may change the conditions of that wastewater discharge permit to alleviate the problem. The ~~superintendent~~utilities director may allow a user reasonable time to comply with any division required changes in the permit; provided, that such changes are not in conflict with changes required by the state or federal government. The time allowed for such compliance would be consistent with time limitations imposed upon the city by regulatory agencies.

(c) All industrial users shall promptly notify the division of water pollution

control in advance of any substantial change. A substantial change shall consist of 10 percent in wastewater volume or character of pollutants in the discharge, including the listed characteristic hazardous wastes for which the industrial user has submitted notification ~~in~~pursuant to 40 CFR 403.12(p). A change in the wastewater strength shall immediately effect recalculation of the wastewater service charges and fees.

(d) The conditions in wastewater discharge permits shall be enforced by the ~~superintendent~~utilities director in accordance with the provisions of this chapter and any regulations established by the division of water pollution control. Any discharger who exceeds the conditions of the permit will be subject to the enforcement provisions set forth in this chapter.

Section 68. That section 13.20.460, Permit modifications to comply with new pretreatment standards, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Permit modifications to comply with new pretreatment standards.

(a) Within 90 days of the promulgation of a national categorical pretreatment standard, the permit of a user subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by the outlined regulations for such standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a permit as required by this chapter, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the division of water pollution control within 180 days after the promulgation of the applicable federal categorical pretreatment standard the information required by this

chapter.

(b) A wastewater discharge permit shall be modified by the ~~superintendent~~utilities director to include compliance schedules or to change limits, sampling locations, or any other conditions in the permit if in the opinion of the ~~superintendent~~utilities director such changes are necessary for any reason in the operation of the POTW.

Section 69. That section 13.20.470, Duration, of The Code of the City of Topeka, Kansas, is hereby 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 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~~utilities director 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 70. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 13.20.475, which said section reads as follows:

Wastewater discharge permit; Revocation

(a) The utilities director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the utilities director of significant changes to the

wastewater prior to the changed discharge:

(2) Failure to provide prior notification to the utilities director of changed conditions pursuant to TMC 13.20.520(f):

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application:

(4) Falsifying self-monitoring reports and certification statements:

(5) Tampering with monitoring equipment:

(6) Refusing to allow the utilities director timely access to the facility premises and records:

(7) Failure to meet effluent limitations:

(8) Failure to pay administrative monetary penalties:

(9) Failure to pay sewer charges:

(10) Failure to meet compliance schedules:

(11) Failure to complete a wastewater survey or the wastewater discharge permit application:

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or Chapters 13.20, 13.25, 13.30 or 13.35 TMC.

(b) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a User are void upon the issuance of a new wastewater discharge permit to that User.

Section 71. That section 13.20.480, Transfer, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior approval of the ~~superintendent~~utilities director. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

Section 72. That section 13.20.490, Duties of superintendent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Duties of ~~superintendent~~utilities director.

It shall be the duty of the ~~superintendent of the water pollution control division~~utilities director or his or her designated representative to make such inspections and tests as deemed reasonably necessary to determine compliance with the provisions of this article, and the ~~superintendent~~utilities director may cause the owner of any property connected to a public sanitary sewer receiving the discharge of industrial or commercial waste from any premises to install and maintain such devices and treatment facilities as may be necessary to prevent the discharge of all harmful wastes and substances as provided by this article.

Section 73. That section 13.20.520, Reporting requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Reporting requirements.

(a) Baseline Monitoring Report. Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision

made upon a categorical determination, industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit a report which contains the following information:

(1) Identifying information including the name and address of the facility with the name of the operators and owners.

(2) A list of environmental control permits held by the user.

(3) A brief description of the nature, average rate of production, and standard industrial classification carried out by the user.

(4) Flow measurements showing the measured average and maximum daily flow.

(5) Measurements of pollutants identifying the pretreatment standards applicable to each regulated process.

(6) Certification statement reviewed by an authorized representative of the industrial user as outlined in 40 CFR 403.12(l).

(7) Compliance schedule if additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards.

(8) Such report shall also contain a certification statement signed by an authorized representative.

(b) Ninety-Day Compliance Report. Within 90 days following the date of final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater to the POTW, any user subject to the pretreatment standards and requirements shall submit to the ~~superintendent~~ utilities director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment

standards and requirements and the average and maximum daily flow for the process units in the user's facility which are limited by such pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis, and if not, what additional operations and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. ~~This statement shall meet the signatory requirements of 40 CFR 403.12(l).~~ Such report shall also contain a certification statement signed by an authorized representative.

(c) Periodic Compliance Reports.

(1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge of waste to the POTW, shall submit to the ~~superintendent~~ utilities director reports as required by the permit. Such reports shall also contain a certification statement signed by an authorized representative. In no case will the report cover a period in excess of six months for categorical industries.

(2) Significant noncategorical industrial users shall submit to the water pollution control division at least once every six months a description of the nature, concentration and flow of the pollutants required to be reported in accordance ~~to~~ with the wastewater treatment discharge permit issued.

(3) All periodic compliance reports must be signed and certified in accordance with TMC 13.20.525.

(d) Monitoring and Sampling Requirements.

(1) The monitoring reports required in TMC 13.20.520(c) shall contain

the results of sampling and analysis of the discharge, including the flow and the nature and concentration or mass limitations, where requested by the utilities director, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the utilities director, in lieu of the industrial user. Where the utilities director performs the required sampling and analysis in lieu of the industrial user, the industrial user will not be required to submit the compliance certification required in the baseline monitoring and 90-day reports, required in 40 CFR Part 403.12. In addition, where the utilities director collects all the information required for these reports, including flow data, the industrial user will not be required to submit the same information.

(2) If sampling performed by an industrial user indicates a violation, the user shall notify the utilities director within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the utilities director within 30 days after becoming aware of the violation. However, the industrial user is not required to resample if:

(i) The utilities director performs sampling at the industrial user at a frequency of at least once per month, or

(ii) The utilities director performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the industrial user receives the results of this sampling.

(3) The monitoring reports submitted to the utilities director shall be based upon data obtained through appropriate sampling and analysis, performed

during the period identified in the permit and shall be representative of discharge occurring during the reporting period. The utilities director shall require that frequency of monitoring necessary to assess and assure compliance by the industrial user, with applicable pretreatment standards and requirements.

(4) All analyses shall be performed in accordance with procedures established by the EPA pursuant to section 304(h) of the Act and contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the EPA in accordance with 40 CFR §136.4 and §136.5. Sampling shall be performed in accordance with the techniques approved by the EPA. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the utilities director or other parties approved by EPA.

(5) If an industrial user subject to the reporting requirements monitors any pollutant more frequently than required by the utilities director and uses approved wastewater sampling and analytical methods, the results of this monitoring shall be included in their monitoring report.

(e) Sample Collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report and based on data that is representative of conditions occurring during the reporting period.

(1) Except as indicated in subsection (e)(2) and (e)(3) of this section,

the User must collect wastewater samples using 24 hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the utilities director. Where time proportional composite sampling or grab sampling is authorized by the utilities director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24 hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the utilities director, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(3) For sampling required in support of baseline monitoring and 90 day compliance reports required in TMC 13.20.520(a) and (b) [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the utilities director may authorize a lower minimum. For the reports required by 40 CFR 403.12(e) and 403.12(h), the Industrial User

is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(f) Reports of Changed Conditions. Each User must notify the utilities director of any significant changes to the User's operations or system which might alter the nature, quality, or 10% change in the volume of its wastewater at least 30 days before its introduction.

(g) Reports of Potential Problems.

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the utilities director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(2) Within five (5) days following such discharge, the User shall, unless waived by the utilities director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(3) A notice shall be permanently posted on the User's bulletin board

or other prominent place advising employees who to call in the event of a discharge described in subsection (g)(1) of this section. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(4) Significant Industrial Users are required to notify the utilities director immediately of any changes at its facility affecting the potential for a Slug Discharge.

(h) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in TMC 13.20.450.

(i) Compliance Schedule Progress Report. The following conditions shall apply to the compliance schedule required by TMC 13.20.450:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine (9) months;

(3) The User shall submit a progress report to the utilities director no

later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the utilities director.

Section 74. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 13.20.525, which said section reads as follows:

Certification statements.

~~Certification of Permit Applications and User Reports and Initial Monitoring Waiver~~—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with TMC 13.20.430; Users submitting baseline monitoring reports and periodic compliance reports under TMC 13.20.520; The following certification statement must be signed by an Authorized Representative:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

2440 Section 75. That section 13.20.530, Notice of hazardous waste discharge, of
2441 The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

2442 **Notice of hazardous waste discharge.**

2443 ~~The industrial user shall notify the division of water pollution control, the EPA~~
2444 ~~Regional Waste Management Division Director and state hazardous waste authorities in~~
2445 ~~writing of any discharge into the POTW of a substance, which, if otherwise disposed of,~~
2446 ~~would be a hazardous waste under 40 CFR 261. Such notification must include the~~
2447 ~~name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste~~
2448 ~~number, and the type of discharge (continuous, batch, or other). If the industrial user~~
2449 ~~discharges more than 100 kilograms of such wastes per calendar month, the notification~~
2450 ~~shall also contain the following information, to the extent such information is known and~~
2451 ~~readily available to the industrial user:~~

2452 ~~(a) An identification of the hazardous constituents contained in the wastes, and~~
2453 ~~estimation of the mass and concentration of such constituents in the waste stream~~
2454 ~~discharged during that calendar month; and~~

2455 ~~(b) An estimation of the mass of constituents in the waste stream expected to be~~
2456 ~~discharged during the following 12 months.~~

2457 (a) Any User who commences the discharge of hazardous waste shall notify
2458 the POTW, the EPA Regional Waste Management Division Director, and State
2459 hazardous waste authorities, in writing, of any discharge into the POTW of a substance
2460 which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
2461 Such notification must include the name of the hazardous waste as set forth in 40 CFR
2462 Part 261, the EPA hazardous waste number, and the type of discharge (continuous,
2463 batch, or other). If the User discharges more than one hundred (100) kilograms of such

waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this section need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under TMC 13.20.530. The notification requirement in this section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self monitoring requirements of TMC 13.20.530.

(b) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Utilities Director the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the

discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This section does not create a right to discharge any substance not otherwise permitted to be discharged by Chapter 13.20, 13.25, 13.30 and 13.35 TMC, a permit issued thereunder, or any applicable Federal or State law.

Section 76. That section 13.20.540, Significant noncompliance, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Significant noncompliance.

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

(a) 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).

(b) 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 except pH. No TRC will be used for pH.

(c) 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.

(d) 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, as found in the ERP, 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 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, 90-day compliance reports, and periodic reports) within 30 days from the due date.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations that the ~~superintendent~~utilities director considers to be significant.

Section 77. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 13.20.545, which said section reads as follows:

Upset.

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2536 **(b) An upset shall constitute an affirmative defense to an action brought for**
2537 **noncompliance with categorical Pretreatment Standards if the requirements of**
2538 **paragraph (C), below, are met.**

2539 **(c) A User who wishes to establish the affirmative defense of upset shall**
2540 **demonstrate, through properly signed, contemporaneous operating logs, or other**
2541 **relevant evidence that:**

2542 **(1) An upset occurred and the User can identify the cause(s) of the**
2543 **upset;**

2544 **(2) The facility was at the time being operated in a prudent and**
2545 **workman-like manner and in compliance with applicable operation and**
2546 **maintenance procedures; and**

2547 **(3) The User has submitted the following information to the utilities**
2548 **director within twenty-four (24) hours of becoming aware of the upset. If this**
2549 **information is provided orally, a written submission must be provided within five**
2550 **(5) days:**

2551 **(i) A description of the indirect discharge and cause of**
2552 **noncompliance;**

2553 **(ii) The period of noncompliance, including exact dates and**
2554 **times or, if not corrected, the anticipated time the noncompliance is**
2555 **expected to continue; and**

2556 **(iii) Steps being taken and/or planned to reduce, eliminate, and**
2557 **prevent recurrence of the noncompliance.**

2558 **(d) In any enforcement proceeding, the User seeking to establish the**
2559 **occurrence of an upset shall have the burden of proof.**

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Section 78. That section 13.20.550, Recordkeeping, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Recordkeeping.

~~Records shall be kept by the user for a period of at least five years.~~ Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by TMC Title 13, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under TMC 13.20.300. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the utility director.

Section 79. That section 13.20.570, Liquid waste discharge permit application, application fee, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Liquid waste hauler discharge permit application, application fee.

(a) Applications for a liquid waste hauler discharge permit shall be made to the WPC and shall contain the following information:

(1) Name and address, including business address of liquid waste hauler.

(2) Quantity, capacity, license plate number, and type of all vehicles operated by hauler, for the purpose of hauling liquid waste.

(3) Types of materials pumped by hauler including a waste characterization profile on each type of material.

(4) Proof of insurance in the following types and amounts:

(i) Bodily injury, nonvehicular: \$300,000 each occurrence.

(ii) Property damage, nonvehicular: \$100,000 each occurrence.

(iii) Automobile insurance: \$100,000 single occurrence, \$300,000 aggregate, \$50,000 property damage.

(5) Any other information deemed necessary by the ~~superintendent of the~~ WPC utilities director in order to review the application.

(b) An application must be accompanied by the appropriate fee before it will be considered by the ~~superintendent~~ utilities director. Permit application fees are as follows:

(1) Payment of a \$50.00 application fee (nonrefundable), for those haulers operating only within Shawnee County, shall accompany the application in addition to a \$20.00 permit fee per vehicle.

(2) Payment of a \$100.00 application fee (nonrefundable), for any hauler operating outside Shawnee County, shall accompany the application in addition to a \$20.00 permit fee per vehicle.

(c) The ~~superintendent~~utilities director may issue a permit if, after review of the application, the ~~superintendent~~utilities director finds:

(1) The liquid waste is domestic generated waste or commercial/food waste with the exception of grease trap waste; and

(2) The liquid waste may be discharged into the WPC disposal facility without causing passthrough or interference; and

(3) The liquid waste meets all applicable federal, state, and city requirements. Any permit issued shall be valid for a period of one year following issuance.

Section 80. That section 13.20.580, Control authority, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Control authority.

Liquid waste haulers shall be subject to the conditions of a liquid waste hauler permit as set forth herein. Administration of liquid waste hauler ordinances shall be the responsibility of the water pollution control division (WPC), utilities ~~department of public works~~.

Section 81. That section 13.20.590, Permit, conditions, renewal, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Permit, conditions, renewal.

Any liquid waste hauler discharge permit may include conditions imposed by the ~~superintendent of the WPC~~utilities director in order to assure compliance with federal

pretreatment standards, applicable state regulations and city regulations. Conditions which may be imposed include, but are not limited to, the following:

(a) Liquid waste which violates any prohibited discharge standard of the general pretreatment regulations, 40 CFR 403.5(b) or any local limit is prohibited.

(b) Liquid waste which contains hazardous waste is prohibited.

(c) Liquid waste from commercial or industrial grease traps is prohibited.

Liquid waste discharge permits shall not be transferred, assigned or sold. Application for renewal of a discharge permit shall be made to the ~~superintendent of the WPC~~utilities director 30 days prior to the expiration date contained on the permit.

Section 82. That section 13.20.600, Liquid waste discharge location, fees, manifest, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Liquid waste discharge location, fees, manifest.

The ~~superintendent of the WPC~~utilities director shall designate the disposal facility to receive permitted hauled liquid waste. Disposal of hauled liquid waste at any location or site other than the designated disposal facility is prohibited. The ~~superintendent~~utilities director also shall designate the hours of operation of the disposal facility and establish procedures by which the disposal facility may be used. Disposal of hauled liquid waste at any other time than the designated hours of operation or in violation of the established procedures of usage is prohibited.

The disposal charge for hauled liquid waste shall be calculated at a rate of ~~\$16.00/1,000 gallons through December 31, 2000. Effective January 1, 2001, the disposal charge will be calculated at a rate adjusted to the current documented waste strength. The disposal charge will be evaluated every two years thereafter and adjusted,~~

if necessary, to reflect changes in the excess strength commercial rate charge, the current documented waste strength, and the WPC's percent of expenses related to treatment of the liquid waste. Such charge will be billed by the WPC and payable on a monthly basis.

Each liquid waste load which is presented for discharge shall be accompanied by a load manifest on forms prepared by the WPC which contains the following information:

- (a) Permit holder name, permit number and truck license number.
- (b) Originating location of liquid waste.
- (c) Volume of liquid waste pumped.
- (d) Liquid waste characterization (i.e., industrial/domestic waste).
- (e) Signature and telephone number of a legal representative of the waste generator certifying to the above information.
- (f) Signature of liquid waste hauler certifying the above information to be true and accurate.

A manifest shall be prepared for each location where the hauler receives liquid waste. Failure to present the manifest to the WPC at the time of discharge shall be cause to deny access to the designated disposal facility. Manifest records shall be maintained by the hauler for a period of three years.

Section 83. That section 13.20.610, Discharge of contents from holding tanks, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Discharge of contents from holding tanks.

The contents from holding tanks of domestic waste only shall be allowed with the approval of the ~~superintendent~~ utilities director or designee, at a rate of \$15.00 per 1,000

gallons discharged. Holding tank waste shall be accompanied by a manifest which has been signed by the generator. There shall be no mixing of holding tank wastewater with waste of any other type. A “holding tank” is defined as a nondischarging, storage structure for sanitary wastewater of domestic origin with no connection to a lateral field or any other type of discharge point from the storage tank.

Section 84. That section 13.20.620, Change in liquid waste profile, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Change in liquid waste profile.

A permitted waste hauler shall notify the ~~superintendent of the WPC~~utilities director at least seven days prior to any planned significant change in waste profile. In the event a liquid waste hauler desires to discharge industrial liquid waste then the hauler shall contact the WPC for a separate permit and rate schedule. Any industrial waste shall meet categorical pretreatment standards, if applicable.

Section 85. That section 13.20.630, Rights of refusal, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Rights of refusal.

Notwithstanding any provision to the contrary, the ~~superintendent of the WPC~~utilities director or designee ~~of the superintendent~~ may refuse any liquid waste load. Further, the ~~superintendent~~utilities director may order the testing of the waste load by the hauler prior to disposal. Designated staff of the WPC may also conduct sampling of any liquid waste to confirm compliance with the permit.

Section 86. That section 13.20.640, Enforcement, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Enforcement.

Any liquid waste hauler permit may be revoked by the ~~superintendent of the~~
WPC utilities director upon the occurrence of any of the following:

- (a) Failure to pay disposal charges for a period of 60 days.
- (b) Failure to provide or maintain manifest records.
- (c) Submission of inaccurate or false information concerning waste characterization.
- (d) Attempted disposal or disposal of hazardous waste.
- (e) Disposal of waste into the city's system at any site other than the designated site.

Section 87. That section 13.20.650, Liquid waste hauler – Regulatory penalty, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Liquid waste hauler – Regulatory penalty.

If any public state or federal agency imposes or threatens to impose any penalty upon the WPC, the ~~superintendent~~ utilities director will immediately notify the person(s) or agency reasonably believed to be causing the WPC to be in violation by virtue of their discharge to the city sewer. If a penalty is subsequently assessed against the WPC, the person(s) or agency causing the WPC to be in violation shall be held liable for the penalty. All fines imposed as a result of a violation of this chapter shall be paid by the person(s) or agency causing the violation to the city and credited to the WPC.

Section 88. That section 13.20.660, Liquid waste hauler – Damage to facilities, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Liquid waste hauler – Damage to facilities.

When it has been determined that a discharge of hauled liquid waste causes an obstruction, damage, or any other impairment to the wastewater disposal facilities, the

WPC may assess a charge for the work required to clean or repair the facility against the liquid waste hauler responsible for the discharge.

The repairs may be made by a private contractor or by personnel of the WPC at the option of the ~~superintendent of the WPC~~utilities director. Where applicable, the WPC may add such charge to the liquid waste hauler's wastewater service charges.

Section 89. That section 13.20.680, Connection fees and monthly rates/charges established, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Connection fees and monthly rates/charges established.

(a) Rates and charges for sewer maintenance, sewage transportation, and sewage treatment shall be established by ordinance in amounts sufficient to pay costs and expenses of the following three general classifications:

- (1) Sewage disposal and treatment; and
- (2) Sewage transportation; and
- (3) Sewer operation and maintenance.

All such rates shall be reviewed at least every five years or more frequently at the discretion of the city, except rates for sewage disposal and treatment, which rates shall be reviewed, altered, or amended as other rates within the city limits.

(b) At the discretion of the city manager or ~~city council~~governing body, the connection fees listed in this section may be waived for economic development projects which, due to their unusual nature or magnitude, offer extraordinary benefits to the community. The city manager may waive up to 25 percent of the fees. ~~City council~~Governing body approval shall be required for approval for any waiver in excess of 25 percent.

(c) The ~~public works~~utilities director shall determine the system connection fee for each consumer making application for a new service connection. The system connection fee shall be paid prior to connection as part of the application process. Such system connection fees shall be based on the system's value, total capacity, and associated water meter size. Applications for sewer connections for which there is no associated water service application shall have a sewer connection fee which is calculated on the basis of projected flows from other sources approximating the water service size. System connection fees are in addition to other rates, charges, deposits, or fees established by law. The system connection fees for all classifications and meter sizes shall be paid prior to connection. These fees shall include all materials and labor by city personnel.

The system connection fees for meters larger than eight inches shall be determined by the ~~public works~~utilities director based on projected flows.

Section 90. That section 13.20.710, Treatment of liquid waste – Setting of rate, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Treatment of liquid waste – Setting of rate.

The ~~superintendent~~utilities director shall have the authority to accept liquid waste for treatment at the plant and to establish the rate for treatment of any class of liquid waste. The ~~superintendent~~utilities director shall take certain factors into consideration in setting the rates for treatment of liquid waste including, but not limited to, surcharge rate, documented waste strength, special treatment requirements, special handling and administrative costs. Nothing contained herein shall limit the ~~superintendent~~utilities director's ability to refuse to accept any liquid waste for treatment.

Section 91. That section 13.20.720, Special treatment conditions, of The Code

of the City of Topeka, Kansas, is hereby amended to read as follows:

Special treatment conditions.

Any stronger sewage or sewage objectionable because of interference with the normal biological treatment processes of the plant is subject to acceptance by the ~~superintendent~~utilities director upon terms worked out between the city and the proposed customer seeking an outlet for strong sewage wastes.

Section 92. That section 13.20.740, Rendering of bills, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Rendering of bills.

The customer services office of the ~~public works~~utilities department shall render bills monthly to all persons whose premises are connected to the sanitary sewer system of the city. The customer service office shall not assume responsibility for speedy and safe delivery or the failure to receive such bills. A duplicate may be obtained by calling in person at the customer service office or by telephoning the office requesting a duplicate bill.

Section 93. That section 13.20.780, Certification of names of water users without sewage connection, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Certification of names of water users without sewage connection.

~~The superintendent of water pollution control shall certify to the~~ utilities director of ~~public works~~shall compile a list, at least 30 days prior to the effective date of the sewage service charges fixed by this article, the names of all water users who do not have connections with sanitary sewers, and shall certify monthly thereafter the names of all persons who become users, whose premises are connected with a sanitary sewer

2800 system.

2801 Section 94. That section 13.20.820, Use of grease traps/interceptors, of The
2802 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

2803 **Use of grease traps/interceptors.**

2804 Grease traps/interceptors shall be installed in accordance with the requirements
2805 of Chapter 14.35 TMC to ensure compliance with the effluent limitations contained in
2806 this chapter. Each grease generator shall be responsible for servicing and routine
2807 cleaning of the grease trap and/or grease interceptor to maintain it in satisfactory
2808 operating condition. Each grease generator shall ensure that grease traps and grease
2809 interceptors are cleaned as often as necessary to ensure that sediment and floating
2810 materials do not accumulate to impair the efficiency of the grease trap and/or grease
2811 interceptor; to ensure the discharge is in compliance with local discharge limits; and that
2812 no visible grease is observed in discharge. Each grease generator shall also be
2813 responsible for removing the cover of the grease trap for inspection at the request of
2814 any representative of the ~~public works~~utilities department. Any existing grease
2815 generator not currently using a grease trap and/or grease interceptor shall be required
2816 to install such if future data (laboratory data and/or preventive maintenance data) show
2817 a need for waste pretreatment requirements regulated by the water pollution control
2818 division.

2819 Section 95. That section 13.20.830, Quarterly reporting, of The Code of the City
2820 of Topeka, Kansas, is hereby amended to read as follows:

2821 **Quarterly reporting.**

2822 Each grease generator shall submit a quarterly grease report on such forms
2823 provided by the city to the ~~superintendent~~utilities director. The quarterly grease report

shall be submitted on or before the last calendar day of March, June, September, and December in each year.

Each quarterly grease report shall provide the following information, including, but not limited to, a record of the dates the grease trap and/or grease interceptor was cleaned, the name and contact information for the grease hauler, if applicable, and grease generator contact information. Failure to submit a quarterly grease report or failure to submit a complete report within 30 days of the due date may result in the issuance of a notice of violation and enforcement under Article II of this chapter.

Section 96. That section 13.20.840, Record keeping, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Record keeping.

Each grease generator shall maintain a grease trap/interceptor maintenance log on such forms provided by the division that shall indicate all dates of trap/interceptor cleaning, disposal method, quantity removed, and the name of the grease hauler that pumped the interceptor or the individual who cleaned the trap. The grease trap/interceptor maintenance log shall indicate the cleaning dates for at least the previous 12 months and shall be available for inspection and review by the ~~superintendent~~ utilities director. Failure to maintain a maintenance log shall result in the issuance of a notice of violation and enforcement in accordance with this chapter.

Section 97. That section 13.20.850, Additives, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Additives.

The introduction of any solvent-based products (i.e., fuel, gasoline or any other hydrocarbons) or enzymatic agents is prohibited in the collection system. All other

chemicals, emulsifiers, live bacteria, or other grease cutters or additives shall be approved by the ~~superintendent~~utilities director prior to use. Based upon the information received and any other information solicited from the potential user or supplier, the ~~superintendent~~utilities director shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the city at any time. Any violation of this section may result in the issuance of a notice of violation and enforcement in accordance with this chapter.

Section 98. That section 13.20.910, Grease waste inspection, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Grease waste inspection.

Grease wastes pumped from any grease generator shall be subject to inspection, sampling, and analysis to determine compliance with all applicable provisions of these rules and regulations of the ~~superintendent~~utilities director who shall perform or supervise such inspection, sampling, and analysis at any time during the commission of any servicing of any grease trap or interceptor.

Section 99. That section 13.20.940, Suspension or revocation of license, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Suspension or revocation of license.

Failure of any grease hauler to comply with the requirements of this chapter shall be subject to the following enforcement procedures:

(a) Notice of Violation. A notice of violation will be issued to any grease hauler that is found to be in noncompliance with the requirements of this chapter. The notice shall state the violation and shall give the grease hauler 10 business days to remedy or otherwise correct the violation. The grease hauler shall have 10 calendar days from the

receipt of notice by the grease hauler to correct or otherwise remedy the violation.

(b) Grounds for Notice of Violation. A grease hauler may be issued a notice of violation for any one of the following grounds:

(1) Falsification of any information submitted as part of the application for the LGH.

(2) Failure to comply with any requirements or regulations concerning grease traps/interceptors as provided for in this chapter.

(3) Failure to pay required fees, or any other assessed fees.

(4) Failure to comply with any other license condition.

(5) Discharging any liquid waste into a nonauthorized location.

(6) Falsifying information required for a discharge manifest, or any other applicable forms, applications or reports required under this chapter.

(7) Disposal of waste into the municipal sewer system at any site other than the designated disposal site.

(8) Any other violation which constitutes an imminent or substantial damage to the health or welfare of persons or the environment.

(c) License Suspension/Revocation.

(1) In the event that a grease hauler shall fail to remedy a violation within the time frame set forth in the notice, the license shall be suspended as follows:

(i) Upon the first failure to remedy a violation, the grease hauler license will be suspended by the division until such time as the violation has been remedied.

(ii) Upon the second failure to remedy a violation, the grease hauler's license shall be suspended for a period of three months.

2896 (iii) Upon the third failure to remedy a violation, the grease hauler's
2897 license shall be suspended for a period of one year. The license
2898 suspension shall only be lifted after expiration of the one-year period and
2899 the grease hauler has applied for a new grease hauler license meeting all
2900 requirements of TMC 13.20.870.

2901 (2) During any period of any license suspension, a grease hauler may not
2902 engage in any grease hauling activities.

2903 (3) Upon receipt of a notice of suspension issued by the division, the
2904 grease hauler shall have 10 days to file a written notice of appeal of the license
2905 suspension with the ~~superintendent~~utilities director. An administrative hearing
2906 shall be set within 10 days of the receipt of the appeal. The suspension of the
2907 license shall be stayed until the hearing before the city's administrative hearing
2908 officer.

2909 Section 100. That section 13.20.950, Prohibited acts, of The Code of the City of
2910 Topeka, Kansas, is hereby amended to read as follows:

2911 **Prohibited acts.**

2912 (a) In addition to any other enforcement provisions contained in this chapter, it
2913 shall be unlawful for any person to do the following:

2914 (1) Violate any term or condition of the grease hauler license.

2915 (2) Failure to follow any filing, reporting, inspection or monitoring
2916 requirement required by federal, state, or city law or regulation.

2917 (3) Failure to comply with any lawful order or requirement made by the
2918 ~~superintendent~~utilities director.

2919 (4) Failure to maintain accurate grease interceptor service reports.

2920 (5) Disposal of waste at any site other than the designated disposal site.

2921 (b) Any person violating this section may be punished by:

2922 (1) A fine of not more than \$499.00;

2923 (2) Imprisonment in jail for not more than 179 days; or

2924 (3) Both such fine and imprisonment, not to exceed the limits set out in
2925 subsections (b)(1) and (b)(2) of this section.

2926 Section 101. That section 13.25.110, Program responsibility, of The Code of the
2927 City of Topeka, Kansas, is hereby amended to read as follows:

2928 **Program responsibility.**

2929 It shall be the duty of the utilities director ~~of public works~~ to administer the
2930 stormwater utility and the director may delegate such duty and responsibility within the
2931 utilities department ~~of public works~~ as is necessary to carry out the provisions of this
2932 chapter. The department shall keep an accurate record of all persons using the services
2933 and facilities of such stormwater management system of the city and to make changes
2934 in accordance with the rates and charges established in this chapter.

2935 Section 102. That section 13.30.040, Reporting of accidental discharges into the
2936 municipal storm sewer system, of The Code of the City of Topeka, Kansas, is hereby
2937 amended to read as follows:

2938 **Reporting of accidental discharges into the municipal storm sewer system.**

2939 (a) Any owner of a facility, vehicle, or other source of a discharge into the
2940 municipal storm sewer system, or waters of the United States, other than stormwater
2941 shall immediately notify the utilities director ~~of public works~~ and the fire chief concerning
2942 the incident. This shall include all substances as listed in 49 CFR Part 171, Hazardous
2943 Materials, 40 CFR Part 302, Hazardous Substances, 40 CFR Part 355, Extremely

Hazardous Substances, 40 CFR Part 261.3, Hazardous Waste, and Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) Part 101, Biological Agents or Other Disease-Causing Agents. This shall further include releases of 10 gallons or greater or releases in any amount that contains a reportable quantity of one or more of the listed substances.

(b) When notifying the utilities director of ~~public works~~ and fire chief the owner reporting shall supply information regarding the following:

- (1) What was released;
- (2) Location of release;
- (3) Time and duration of release;
- (4) Estimate of quantity of release;
- (5) Source of release;
- (6) Known or anticipated health risks associated with release;
- (7) Precautions needed as result of release;
- (8) Any steps that have been taken to contain and/or clean up the release;
- (9) Names and telephone numbers of person or persons to be contacted for further information.

(c) Within 15 days following a release, the owner of the facility, vehicle or other source of the release must submit a written report containing information specified directly above and any additional information requested by the utilities director of ~~public works~~ or fire chief.

Section 103. That section 13.30.060, Erosion and sediment control standards, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Erosion and sediment control standards.

The ~~superintendent~~utilities director or designee shall adopt and maintain erosion and sediment control standards to assist in the administration of this chapter. The erosion and sediment control standards shall be based on, but not limited to, the following principles:

- (a) Fit the development to existing site conditions.
- (b) Minimize the extent of exposure.
- (c) Minimize duration of exposure.
- (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~~utilities director.

Section 104. That section 13.30.070, General provisions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

General provisions.

Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements of this chapter, 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 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~~utilities director. Where implementation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

Section 105. That section 13.30.080, Permit, of The Code of the City of Topeka, Kansas, is hereby amended to read 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 or other land disturbance activity without first obtaining a land disturbance activity permit.

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

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

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

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

(4) The ~~superintendent~~utilities director determines that a land disturbance activity permit is required because of unique circumstances and a potential impact on the environment.

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

(d) Application – Exceptions. A land disturbance activity permit shall not be

required for the following:

(1) The removal or increase of earthwork in conjunction with any construction project of less than 3,000 square feet for which a building or construction permit has been issued, provided the removal or increase of 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 chapter 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~~utilities director.

(e) Nothing contained in subsection (d) of this section 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 a permit or requirements set forth in TMC 12.45.040 concerning construction activity in the city's rights-of-way; TMC 17.30.150 concerning construction activities in floodplains;

TMC 17.20.020 concerning construction adjacent to flood control levees; or TMC 17.10.040 concerning activities in buffer zones.

(f) Review. The ~~superintendent~~utilities director shall complete a review of the SWPPP within 14 days of receiving the SWPPP from the developer.

(1) Permit Required. If the ~~superintendent~~utilities director determines that the SWPPP meets the requirements of this chapter, the ~~superintendent~~utilities director shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of the SWPPP.

(2) Denial. If the ~~superintendent~~utilities director determines that the SWPPP does not meet the requirements of this chapter, the city shall not issue a permit for the land disturbance activity. The SWPPP must be resubmitted for approval before the land disturbance activity begins. All land use and building permits shall be suspended until the developer has an approved stormwater pollution prevention plan.

(3) ~~Superintendent~~Utilities director Inspections and Enforcement. The ~~superintendent~~utilities director shall conduct inspections on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the builder or developer to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop work orders shall be issued by the ~~superintendent~~utilities director, until erosion and sediment control measures meet the requirements of this chapter. An inspection must follow before work can commence. Inspections are required as follows:

- (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 106. That section 13.30.100, Stormwater prevention plan or erosion and sediment control plan, of The Code of the City of Topeka, Kansas, is hereby amended to read 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~~utilities director 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 soils or other material subject to erosion by wind or water or land disturbance activity of 3,000 or more feet but less than one 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.

- 3112 (8) Avoid steep slopes and the need for high cuts and fills.
- 3113 (9) Minimize disturbance to the surrounding soils, root systems and trunks
- 3114 of trees adjacent to site activity that are intended to be left standing.
- 3115 (10) Minimize the compaction of site soils.
- 3116 (d) Erosion and Sediment Control Plan or SWPPP Requirements. The
- 3117 erosion and sediment control plan or SWPPP shall include the following on all relevant
- 3118 plans and drawings:
- 3119 (1) Site Plans for Existing and Proposed Conditions. A complete site plan
- 3120 and specifications, signed by the person who designed the plan, shall be drawn
- 3121 to an easily legible scale, shall be clearly labeled with a north arrow and a date of
- 3122 preparation, and shall include, at a minimum, the following information:
- 3123 (i) Project Map. A map at least eight and one-half by 11 inches
- 3124 indicating site boundaries, property lines and lot dimensions in relation to
- 3125 surrounding roads, buildings and other structures, and other significant
- 3126 geographic features.
- 3127 (ii) Identification of all natural and artificial water features (including
- 3128 drain tiles) on or adjacent to the site including, but not limited to, lakes,
- 3129 ponds, streams (including intermittent streams), wetlands, natural or
- 3130 artificial water diversion or detention areas, subsurface drainage facility,
- 3131 stormwater conveyance, and storm sewer catch basins.
- 3132 (iii) Identification of 100-year flood elevations and stream buffers.
- 3133 (iv) Existing and proposed grades showing drainage on and
- 3134 adjacent to the site.
- 3135 (v) Existing and proposed impervious surfaces.

(vi) Steep slopes where areas of 12 percent or more exist over a distance of 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 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 70 percent of the permanent ground cover has been established and all temporary erosion control shall be removed within 30 days thereafter.

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

(v) Design and construction methods to stabilize steep slopes.

(vi) Stabilization of all waterways and outlets.

(vii) Protection of storm sewer infrastructure from sediment loading or plugging.

(viii) Stabilization of disturbed areas, including utility construction areas, as soon as possible.

(ix) Protection of roads from sediment and mud from construction site activities.

(x) Disposal of collected sediment and floating debris.

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

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

(4) Designation of Responsible Person. The erosion and sediment control plan or SWPPP must identify the person who will oversee the 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 control plan or SWPPP shall provide for the following:

(i) During the construction season, the responsible party shall inspect the erosion and pollution control devices and complete the inspection and maintenance reports every seven days and within 24 hours of a precipitation event of one-half inch or more.

(ii) During inactive seasons, such as winter shutdowns, inspection of the site condition shall be made at least 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 seven calendar days.

(iii) 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 on site with the SWPPP or erosion control plans.

(6) Changes or Modification. The ~~superintendent~~utilities director 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~~utilities director 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~~utilities director.

(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 14 days with temporary erosion protection or permanent cover.

(ii) If more than 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 10 acres, sedimentation basins are encouraged, but not required. The responsible person shall install erosion and sediment controls at locations directed by the ~~superintendent~~utilities director. 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 one-half-inch 24-hour storm event shall be treated unless discharge is to a special water where runoff from the one-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 10 cubic yards the toe of the pile must be more than 25 feet from a road, drainage channel or stormwater inlet. If left for more than seven 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 25 feet from a road drainage channel or stormwater inlet, the ~~superintendent~~ utilities director may allow stockpiling within 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 two-inch clear aggregate or an approved equal as determined by the ~~superintendent~~utilities director. On sites with high traffic, the ~~superintendent~~utilities director may require wash racks, wash ponds or other means of minimizing sediment leaving the site.

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

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

(14) Storm Drain Protection. All storm drain inlets shall be protected during construction with control measures as approved by the ~~superintendent~~utilities director. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to assure these devices are operational at all times. Storm drain protection shall be removed and area inlet shall be cleaned of debris following site stabilization.

(f) Modification of Plan. The responsible person must amend the erosion control plan or SWPPP as necessary to include additional requirements such as additional or modified BMPs designed to correct problems identified or address situations whenever:

(1) A change in design, construction, operation, maintenance, weather, or

seasonal conditions that has a significant effect on the discharge of pollutants 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 107. That section 13.30.110, Regulation of industrial activities, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Regulation of industrial activities.

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 utilities 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:

(a) Submit to the ~~superintendent~~utilities director a signed copy of notice of intent (NOI) or notice of nonexposure (NOE), filed with the state of Kansas.

(b) Prepare and implement a stormwater pollution prevention plan in accordance with the requirements set forth in operator's KDHE industrial stormwater permit. The operator shall upon request provide the ~~superintendent~~utilities director with

a copy of the SWPPP including any amendments thereto.

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

Section 108. That section 13.30.120, Sampling of stormwater runoff by each industry, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Sampling of stormwater runoff by each industry.

The operator shall upon request by the ~~superintendent~~utilities director provide a copy of any stormwater sampling and analysis results required to be submitted to the KDHE under the terms of the industrial stormwater permit. Any additional information about each industry's sampling program shall be submitted to the ~~superintendent~~utilities director 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 109. That section 13.30.130, Inspection of industrial facilities, of The Code of the City of Topeka, Kansas, is hereby 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~~utilities director a copy of the annual site compliance evaluation. The operator shall submit to the ~~superintendent~~utilities director a copy of the notice of termination (NOT), submitted to the state of Kansas upon cessation of all stormwater discharges associated with industrial activity.

Section 110. That section 13.35.020, Waiver – Exemptions - Mitigations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Waiver – Exemptions – Mitigations.

(a) The utilities director may grant a waiver for one or more stormwater management requirements if the standard can be met in any of the following ways:

(1) Discharging the stormwater runoff to an existing stormwater management facility, whether public or private, that is an off-site facility designed, adequately sized, constructed and maintained to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is an entity responsible for long-term operation and maintenance of the stormwater practice, provided the developer produces a written agreement permitting the discharge of stormwater runoff and long-term operation and maintenance to the existing stormwater management facility.

(2) Engineering studies determine that installing a stormwater management facility in order to meet the stormwater management standards will cause adverse impact to water quality, or cause a negative impact to a downstream channel.

(3) For redevelopment, engineering studies demonstrate there is no net increase in stormwater runoff from current conditions.

(b) Acceptable mitigation measures may be required in order to prevent deterioration of existing culverts, bridges, dams, and other structures, degradation of biological functions or habitat, accelerated stream bank or stream bed erosion or siltation, and increased threat of flood damage to public health, life, and property. Such mitigation measures may include, but are not limited to:

(1) The purchase and donation of privately owned lands, or the granting of an easement to be dedicated for preservation or reforestation.

(2) The creation of a stormwater management facility or other drainage improvement on previously developed properties, public or private, that currently lack stormwater management facilities.

(3) Granting an easement or dedicating land to the city to be used for the construction of an off-site stormwater management facility. Such easement shall be granted prior to issuance of any building permit.

(c) A request for waiver shall not be granted without an engineering study shown in drainage plans submitted for new development or redevelopment that creates additional impervious surfaces establishing the adequacy of downstream or shared off-site stormwater management facilities which offer equivalent or greater protection than the standard(s) for which a waiver is requested.

(d) Site plans for single-family and two-family dwellings on individual lots are exempt from this chapter unless they are located in an area which drains to an impacted waterway as deemed by the utilities director based on an engineering study.

Section 111. That section 13.35.030, Performance criteria for stormwater

management, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Performance criteria for stormwater management.

All subdivision plats and site plans shall meet the following requirements for stormwater management:

(a) Designs shall establish stormwater management practices to control peak flow rates of discharge according to the storm drainage design criteria. These practices should utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, storage areas, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) All stormwater runoff generated from new developments shall not discharge directly into a jurisdictional wetland or local water body without adequate treatment as specified in the post construction stormwater quality policy. Where such discharges are proposed, they shall meet all applicable local, state and federal requirements, permits, plans and programs. The owner is responsible for complying with all local state and federal permits that are applicable to the site.

(c) BMPs shall be designed to promote infiltration to the maximum extent possible through the use of structural and nonstructural methods.

(d) For new development and redevelopment, structural stormwater treatment practices shall meet the following performance standards:

(1) Stormwater runoff shall be treated for water quality prior to discharge from the development site.

(2) Designed according to the City of Topeka Design Criteria and Drafting Standards.

(3) Reduce the discharge of the total maximum daily load (TMDL) regulated pollutants to an associated stream and/or lake as identified in the Post Construction Stormwater Quality Policy set forth by the utilities director.

(4) Reduce the discharge of principal pollutants of concern as identified in the Post Construction Stormwater Quality Policy set forth by the utilities director.

Section 112. That section 13.35.040, Requirements for stormwater management plan approval, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Requirements for stormwater management plan approval.

(a) No application for subdivision plats or site plans to which this chapter applies shall be approved unless the application includes a stormwater management plan detailing in concept how runoff and associated water quality impacts resulting from development will be controlled or managed.

(b) Stormwater Management Concept. The stormwater management concept plan shall include the following information to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site:

(1) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses,

drainage patterns, locations of utilities, roads and easements, and the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(2) A plan designed by qualified personnel showing that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the specifications of the storm drainage design criteria. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description shall address soil conditions, forest cover, topography, wetlands, native vegetative areas on the site, and environmentally sensitive features that provide particular opportunities or constraints for development.

(3) A written description of the individual(s) responsible for maintenance of the proposed plan.

(4) A written description of the maintenance that shall be performed by the responsible party.

(5) The utilities director may also require a concept plan to address the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

(c) Final Stormwater Management Plan Requirements. After review of the stormwater management concept plan, and modifications to that plan as deemed necessary by the utilities director, a final stormwater management plan shall be submitted for approval. The final stormwater

management plan, in addition to the information from the concept plan,
shall include the following:

(1) Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

(2) Topographic Base Map. A one inch equals 200 feet topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.

(3) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the storm drainage design criteria. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) soil curve numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the storm drainage design criteria, and (ix) documentation of sources for all computation methods and field test results.

(4) Soils Information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring

logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on the need to determine the suitability and distribution of soil types present at the location of the control measure.

(5) Maintenance and Repair. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function, as well as the individual(s) responsible for such maintenance. The applicant shall identify the parts or components of a stormwater management facility that need to be maintained and the equipment, skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included.

(6) Landscaping. The applicant shall present a detailed plan for management of vegetation at the site after construction is finished, including responsibility for the maintenance of vegetation at the site and the practices employed to ensure that adequate vegetative cover is preserved. These provisions shall be prepared by qualified personnel.

(7) Easements. The applicant shall provide access to the city for all stormwater treatment facilities or easements at the site for the purpose of inspection and repair by securing all the necessary easements needed on a permanent basis. These easements will be shown on the recorded plat or granted by separate instrument and shall run with the land.

(8) Erosion and Sediment Control Plans for Construction of Stormwater Management Measures. The applicant shall prepare an erosion and sediment control plan or submit a SWPPP for all construction activities related to

3520 implementing any on-site stormwater management practices.

3521 (9) Other Environmental Permits. The applicant shall assure that all other
3522 applicable environmental permits have been acquired for the site prior to
3523 approval of the final stormwater design plan.

3524 (10) Requirement for Stabilization. Banks of all streams, channels, ditches
3525 and other earthen stormwater conveyances shall be left in a stabilized
3526 condition upon completion of the new development or redevelopment. No
3527 actively eroding, bare or unstable vertical banks shall remain after
3528 completion of construction.

3529 (11) All stormwater facilities and systems, including those designed and
3530 constructed for water quality treatment, downstream channel stabilization, and
3531 peak discharge control shall be designed, constructed and maintained in
3532 accordance with the criteria, standards, and specifications presented in this
3533 chapter, or other professionally accepted manual for stormwater quality
3534 management. The standards for water quality treatment, downstream channel
3535 stabilization and peak discharge analysis and control shall be achieved through
3536 the use of one or more stormwater quality management facilities that are
3537 designed and constructed in accordance with the design criteria, guidance, and
3538 specifications provided in a professionally accepted manual for stormwater
3539 quality or other acceptable professional methods. Methods, designs or
3540 technologies for stormwater quality management facilities that are not provided in
3541 any stormwater quality manual may be submitted for approval if it is proven that
3542 such methods, designs or technologies will meet or exceed the stormwater
3543 treatment standards set forth in this chapter.

3544 Section 113. That section 13.35.050, Construction inspection, of The Code of the
3545 City of Topeka, Kansas, is hereby amended to read as follows:

3546 **Construction inspection.**

3547 (a) The utilities director shall have the right to perform inspections
3548 during the construction of the stormwater management system.

3549 (b) As Built Plans. All applicants shall submit actual “as built” plans for any
3550 stormwater management practices located on site after final construction is completed.
3551 The plan shall identify the final design specifications for all stormwater management
3552 facilities and shall be certified by qualified personnel.

3553 Section 114. That section 13.35.060, Maintenance and repair of stormwater
3554 facilities, of The Code of the City of Topeka, Kansas, is hereby amended to read as
3555 follows:

3556 **Maintenance and repair of stormwater facilities.**

3557 (a) Stormwater Management Easement. Prior to the approval of subdivision
3558 or site plan applications pertaining to land development activities described in TMC
3559 13.35.010(a), the owner of the site shall provide for access to the facility at reasonable
3560 times for periodic inspection by the city, or its contractor or agent, and shall require the
3561 property owner to ensure that the facility is maintained in proper working condition to
3562 meet design standards and any other provisions established by this chapter. The
3563 stormwater management easement shall be shown on the recorded plat or granted by
3564 separate, recorded instrument.

3565 (b) Inspection of Stormwater Facilities. The utilities director shall have
3566 the ability to conduct inspections of the stormwater facilities. Inspections
3567 may include, but are not limited to: reviewing maintenance and repair

3568 records; sampling discharges, surface water, groundwater, and material or
3569 water in drainage control facilities; and evaluating the condition of
3570 drainage control facilities and other stormwater treatment practices.

3571 (c) Failure to Maintain Practices. If a responsible party fails or refuses to meet
3572 the requirements set forth in the stormwater management plan, the city, after
3573 reasonable notice, may pursue enforcement of the plan or the provisions of this chapter.

3574 Section 115. That original § 13.05.017, § 13.05.050, § 13.05.060, § 13.10.030, §
3575 13.10.070, § 13.10.090, § 13.10.100, § 13.10.120, § 13.10.140, § 13.10.150, §
3576 13.10.190, § 13.10.240, § 13.10.270, § 13.10.290, § 13.10.350, § 13.10.390, §
3577 13.10.400, § 13.10.415, § 13.10.420, § 13.10.430, § 13.10.440, § 13.10.450, §
3578 13.10.460, § 13.10.480, § 13.10.490, § 13.10.495, § 13.10.497, § 13.10.560, §
3579 13.10.580, § 13.10.620, § 13.10.650, § 13.10.670, § 13.15.010, § 13.15.020, §
3580 13.15.030, § 13.15.040, § 13.15.100, § 13.15.110, § 13.15.120, § 13.15.130, §
3581 13.15.140, § 13.20.100, § 13.20.120, § 13.20.130, § 13.20.150, § 13.20.160, §
3582 13.20.170, § 13.20.190, § 13.20.200, § 13.20.220, § 13.20.230, § 13.20.240, §
3583 13.20.260, § 13.20.270, § 13.20.280, § 13.20.290, § 13.20.300, § 13.20.330, §
3584 13.20.370, § 13.20.380, § 13.20.400, § 13.20.410, § 13.20.420, § 13.20.430, §
3585 13.20.440, § 13.20.450, § 13.20.460, § 13.20.470, § 13.20.480, § 13.20.490, §
3586 13.20.520, § 13.20.530, § 13.20.540, § 13.20.550, § 13.20.570, § 13.20.580, §
3587 13.20.590, § 13.20.600, § 13.20.610, § 13.20.620, § 13.20.630, § 13.20.640, §
3588 13.20.650, § 13.20.660, § 13.20.680, § 13.20.710, § 13.20.720, § 13.20.740, §
3589 13.20.780, § 13.20.820, § 13.20.830, § 13.20.840, § 13.20.850, § 13.20.910, §
3590 13.20.940, § 13.20.950, § 13.25.110, § 13.30.040, § 13.30.060, § 13.30.070, §
3591 13.30.080, § 13.30.100, § 13.30.110, § 13.30.120, § 13.30.130, § 13.35.020, §

13.35.030, § 13.35.040, § 13.35.050 and § 13.35.060 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 116. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 117. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 118. 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 Governing Body on October 17, 2017.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk