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**Chapter 15**

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**ARTICLE I. GENERAL PROVISIONS**

**Sec. 15-101 Purpose of Chapter.**

- A. Purpose. In order to promote the public health, safety, and general welfare of the citizens of the City of Ottawa, this ordinance Chapter is enacted for the general purpose of assuring the proper balance between the use of land and the preservation of a safe and beneficial environment. More specifically, the provisions of these regulations, as they may be amended from time to time, are intended to reduce property and environmental damage and to minimize the excessive impact of hazardous substances and sediment on the Municipal Separate Storm Sewer System (MS4).
- B. Objectives. These impacts shall be minimized by the following minimum control measures:
1. To maintain and improve the quality of water impacted by the storm drainage system within the City of Ottawa;
  2. To prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Ottawa;
  3. To promote public awareness of the hazards involved in the improper discharge of sediment, trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, and other pollutants into the storm drainage system;
  4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products;
  5. To enable the City of Ottawa to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for stormwater discharges; and
  6. To establish the legal authority to carry out all inspections, monitoring, and enforcement procedures necessary to ensure compliance with this Chapter.

**Sec. 15-102 Chapter General Provisions.**

- A. Authority. These regulations are adopted pursuant to the power and authority vested through relevant statutory enabling provisions and other applicable laws and statutes of the State of Kansas and Constitution of Kansas.

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B. Applicability. This Chapter shall apply to all land, existing or proposed development, waters or substances entering the MS4 within the City, generated from any developed and/or undeveloped lands unless explicitly exempted by subsequent Articles or an authorized enforcement agency.

1. The requirements of this Chapter shall not apply, unless superseded by State or Federal regulation, to:

- a) Site plans which were approved by Planning Commission prior to July 1, 2011; and
- b) Redevelopment projects that consist solely of ordinary maintenance activities, remodeling of buildings on the existing foundation, resurfacing (milling and overlay) of existing paved areas, and building exterior changes or improvements.

C. Administration. The City of Ottawa shall be responsible for the administration and enforcement of this Chapter. The City Manager shall have the authority to adopt regulations, policies and procedures as necessary for the enforcement of this Chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated to persons or entities acting in the employ of the City.

D. Amendment. For the purpose of providing the public health, safety and general welfare, the governing body may, from time to time, amend the provisions of these regulations.

E. Severability. If any section, subsection, paragraph, sentence, clause or phrase in this Chapter or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter.

F. Right of Entry. Whenever the City has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of any portion of this Chapter, the City Manager is authorized to enter the premises at reasonable times to inspect or to perform the duties imposed by this Chapter. Dischargers shall allow ready access to all parts of the premises for the purposes of inspection, sampling, records examination, copying, and for the performance of any additional duties.

**Sec. 15-103 Legal Provisions.**

A. Interpretations. The provisions of this Chapter are intended to supplement existing codes, including zoning and land use ordinances of the City. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety and general welfare.

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- B. Conflict with Public and Private Provisions. These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute, easement, covenant, any other private agreement or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of the law, whichever provisions are more restrictive or impose higher standards shall control.
  
- C. Other Laws. Neither this Chapter nor any administrative decision made under it exempts the permit holder or any other person from other requirements of this code, state and federal laws, or from procuring other required permits, including any state or federal stormwater permits authorized under the NPDES, or limits the right of any person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the permit holder or any person arising from the activity regulated by this Chapter.

**Sec. 15-104 Enforcement and Penalties.**

- A. General. The discharge of, or potential discharge of, any pollutant to the MS4 or Waters of the United States and/or the failure to comply with the provisions of this Chapter and/or the failure to comply with any directive issued under this Chapter; are violations of this Chapter for which enforcement action may be taken.
  
- B. Notice of Violation. When the City determines that an activity is not being carried out in accordance with the requirements of this Chapter, or that an illicit or prohibited discharge to the City's MS4 has occurred, it shall issue a written Notice of Violation (NOV) to the property owner or perpetrator. The City Manager shall designate a qualified person to administer and enforce this ordinance. In instances an owner, contractor, or property owner has repeatedly ignored the requirements of this Chapter and has not made any reasonable intent to comply with these provisions, immediate enforcement action may be taken. The NOV shall be sent by certified mail and contain:
  - 1. The name and address of the owner or perpetrator;
  - 2. The address when available or a description of the building, structure, or land upon which the violation is occurring;
  - 3. A statement specifying the nature of the violation;
  - 4. A description of the remedial measures necessary to bring the development activity or illicit or prohibited discharge into compliance with this ordinance and a time schedule for the completion of such remedial action;
  - 5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the NOV is directed; and

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6. A statement that the determination of violation may be appealed to the City by filing a written notice of appeal within fifteen (15) days of service of NOV.

C. Enforcement Actions.

1. Stop Work Order. The City Manager is authorized to issue a stop work order for any or all construction activity within the established boundary of the permit. The stop work order shall be in writing and shall be given to the owner of the property involved, or the owner's agent or to the person doing the work. In addition, notice of the stop work order shall be posted on the site. 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. A NOV shall accompany the stop work order.
2. Penalties and Fines. Any person who violates a provision of this Chapter, fails to comply with any of the requirements thereof or fails to comply with a directive issued by the City Manager is guilty of a public offense and shall be subject to penalties or fine in the range of \$100 - \$5,000.
3. Abatement. Should any person fail to comply with the provisions of this Chapter, the City Manager is authorized to correct or abate such violation. This action can be taken in lieu of, or in conjunction with, any enforcement actions set forth in this Chapter. The qualified person, or an authorized assistant, shall give notice to the owner, occupant, or agent in charge of the premises by certified mail of the costs of abatement of the violation. The notice shall state that payment of the costs is due and payable within thirty (30) days following receipt of notice.
4. Recovery of Expenses. If the costs of removal or abatement remain unpaid after thirty (30) days following the receipt of notice, a record of the costs shall be certified to the city clerk. The City may levy a special assessment for such costs to be assessed against the particular lot or piece of land on which such violation was so removed and/or corrected. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for placing on the tax rolls of the county.
5. Termination of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the City shall have the authority to order the disconnection of City water, sanitary sewer and/or sanitation services, upon a finding that the disconnection of utility services will remove a violation of this Chapter that poses a public health hazard or environmental hazard.
6. Withhold Development Authorization. Whenever the City Manager determines that stormwater management facility(s) do not meet City design standards, the

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City Manager may take any of the following actions without prior notice of violation:

- a) Withhold the recordation of a final plan or plat; and/or
  - b) Withhold the issuance of a building permit or place a stop work order on a project for which the Stormwater Management Study is required.
7. Withhold Occupancy. Whenever the City Manger determines the required stormwater management facility(s) have not been constructed according to plan and adopted construction standards, or have been contaminated by construction phase sediment, the City Manager, may, without prior notice of violation, withhold the issuance of a temporary or final certificate of occupancy.

D. Unlawful Interference. City representatives may enter private property to take any and all measures necessary to abate or correct any violation. It shall be unlawful for any person to interfere with or to attempt to prevent the qualified person or the qualified person's authorized representative from entering upon any such lot or piece of ground or from proceeding with abatement. Such interference shall be punishable by a fine of not less than \$100.00 nor more than \$500.00. Each separate day or part thereof shall constitute a separate offense.

#### **Sec. 15-105 Appeals.**

- A. Whenever a person shall deem themselves aggrieved by any decision or action taken by the City Manager acting under the authority of this Chapter, the person may file an appeal with City Manager within fifteen (15) calendar days of the date of notice of such decision or action.
1. Exception. Whenever the City Manager's decision is the instigation of proceedings at law for the assessment of a fine, due process is assured by the proceedings and appeal to the City Manager is not available.
- B. The person shall be afforded a hearing on the matter before the City Manager within fifteen (15) days of filing the appeal. A written decision will be issued within fifteen (15) days of the hearing. At any hearing held pursuant to this chapter, testimony taken much be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
- C. In cases where compliance with the decision or action taken by the City would cause undue hardship and the City Manager finds that it is in public interest to extend the time limit for such decision or action, grant exceptions to, waive requirements of, or grant a variance from a specific provisions, the City Manager may extend the time limit of such

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decision or action, may grant exceptions to, waive requirements of, or grant a variance from a specific provision.

- D. Any such person shall have thirty (30) days after the City Manager's written decision is issued to institute an action in the City of Ottawa.

#### **Sec. 15-106 NPDES, MS4 Permit Provisions.**

- A. In order to protect the MS4 and quality of water the City of Ottawa shall address the following provisions:
1. Establish municipal authority to prohibit and regulate illicit (non-stormwater) discharges into the MS4;
  2. Establish municipal authority to require and monitor construction phase Erosion and Sediment Controls;
  3. Establish municipal authority to require, monitor, and maintain post-construction stormwater management facilities.
- B. The City of Ottawa shall submit an annual NPDES Phase II report in accordance with KDHE requirements.

#### **Sec. 15-107 Stormwater Management Program Provisions.**

- A. The City of Ottawa shall prepare a Stormwater Management Program (SWMP) in accordance with EPA and KDHE requirements.
- B. The SWMP plan shall be reviewed in the timeframe specified by EPA/KDHE and modified as necessary to achieve the goals of the program.

#### **Sec. 15-108 Stormwater Pollution Prevention Plan.**

- A. SWP3 Provisions
1. Notice of Intent to be Submitted. Any owner who intends to obtain coverage for stormwater discharges from a construction site under the Kansas General Permit for stormwater discharges from construction sites ("the construction general permit") shall submit a stamped and approved copy by KDHE of its Notice of Intent (NOI) to the City when a land disturbance permit application is made. When ownership of the construction site changes, a revised NOI shall be submitted within fifteen (15) days of the change in ownership.

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2. Stormwater Pollution Prevention Plan Required. If a land disturbance or construction activity disturbs one (1) acre or more of land, a Stormwater Pollution Prevention Plan (SWP3) shall be prepared and implemented in accordance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this Chapter and any other City ordinance.
3. SWP3 Prepared by Qualified Person. The SWP3 shall be prepared under the supervision of and stamped by a professional engineer licensed to practice in the State of Kansas and shall comply with State NPDES requirements. The signature of the preparer shall constitute his/her attestation that the SWP3 fully complies with the requirements of the permit issued.
4. When a SWP3 is Required to be Completed. The SWP3 shall be completed prior to the submittal of the NOI to the City and for new construction prior to the commencement of land disturbance activities. The SWP3 shall be updated and modified as appropriate and as required by the NPDES permit.
5. Submittal of SWP3 to City. The City may require any owner who is required by subsection 15-107(A)(2) of this Chapter to submit the SWP3 and any modifications thereto to the appropriate City official or representative for review at any time.
6. Approval or Denial of Permits. Upon the City's review of the SWP3 and any site inspection that may be conducted, if the SWP3 is not being fully implemented, the City may, upon reasonable notice to the owner, deny approval of any building permit, land disturbance permit, site development plan, final certificate of occupancy, or any other City approval necessary to commence or continue construction. A stop work order may also be issued.

**B. SWP3 Document Requirements**

1. SWP3 to be Retained on Site. The SWP3 and any modifications attached shall be retained at the construction site from the date of construction commencement through the date of final stabilization, and shall be made available to City, State, or Federal entities upon request.
2. Notification of SWP3 Insufficiency. The City may notify the owner at any time that the SWP3 does not meet the requirements of the NPDES permit issued or any additional requirements imposed by or under this Chapter. Such notification shall identify those provisions of the permit or this Chapter which are not being met by the SWP3, and identifies which provisions of the SWP3 requires modification in order to meet such requirements. Within ten (10) days of such notification from



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the City, the owner shall make the required changes to the SWP3 and shall submit to the City a written certification from the owner that the requested changes have been made.

3. SWP3 Amendments. The owner shall amend the SWP3 whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWP3, or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.

#### **C. Owner and Contractor Responsibilities**

1. Contractor Schedule. The contractor shall provide a detailed schedule of work prior to construction activities, which shall include information on timing, duration, and sequencing of erosion and sediment control measures and construction phasing. Once approved, such schedule shall become a part of the SWP3, and changes to the schedule shall require amendment to the SWP3.
2. Contractor Responsibilities. Any and all contractors working on a site subject to an NPDES permit shall be responsible for their own activities to ensure that they comply with the owner's SWP3. Failure to comply with the SWP3 or malicious destruction of BMP devices is hereby deemed a violation of this Chapter.
3. Inspections by Owner Required. Qualified personnel (as defined by KDHE) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of the storm that produces 1/4"(one-quarter) inch or greater of precipitation. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of tracking sediment off-site onto adjacent roads and/or properties.
  - a) SWP3 to be Revised as Appropriate. Based on the results of the inspections required by the above subsection, the pollution prevention measures identified in the SWP3 shall be revised as appropriate. Such

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modifications shall provide for timely implementation of any changes to the SWP3 within ten calendar days following the inspection.

- b) Documentation of Required Inspections. Any and all inspections made shall be documented. Documentation shall include the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, effectiveness and, major observations relating to the implementation of the SWP3, and any actions taken as a result of the inspection to correct deficiencies, and listing of areas where construction operations have permanently or temporarily stopped. Any instance(s) of non-compliance identified during the inspection shall be included in the documentation. The inspection report shall be signed by the inspector. Where an inspection does not identify any non-compliance, the person responsible for making the inspection shall certify by signature that the facility is in compliance with the SWP3, the NPDES permit, and this Chapter.
  - c) Documents to be Retained. The owner shall retain copies of any SWP3 and all inspection reports required by this chapter or by the NPDES permit for the site, and records of all data used to complete the NOI for a period of at least three years from the date that the site is finally stabilized and provide all documentation to the City at the conclusion of the project construction.
4. Duration of Owner/Contractor Responsibility. The owner/contractor is responsible for water pollution control and permit compliance from the issuance of Notice to Proceed until final completion of the work and during any subsequent maintenance bond period. The contractor will be released from responsibility for erosion and sediment control for any portion of the job for which a Notice of Termination (NOT) has been submitted and accepted by the local permit authority, provided that the contractor does not subsequently do work in such areas that create new disturbances. The NOT will not be submitted by the owner until all permit requirements are met, which includes the requirement that final stabilization be achieved. Vegetation must have a density of at least 70% of the density of the undisturbed areas of the site.

#### **Sec. 15-109 Abbreviations.**

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

- BMP - Best Management Practices
- CFR - Code of Federal Regulations
- EPA - U.S. Environmental Protection Agency
- HHW - Household Hazardous Waste

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- KDHE - Kansas Department of Health and Environment
- MS4 - Municipal Separate Storm Sewer System
- NPDES - National Pollutant Discharge Elimination System
- SWP3 - Stormwater Pollution Prevention Plan

### **Sec. 15-110 Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases as used in this Chapter, shall have the meanings hereinafter designated:

*Applicant* means any person who makes an application for a permit as required by the regulations in this Chapter. An applicant must be either the landowner or the landowner's agent.

*Approved Plan* means a set of representational drawings and other documents prepared by a licensed professional engineer that complies with the provisions of these regulations and contains the information and specifications required by the City to minimize stormwater runoff.

*As-Built Plan* means a drawing or plan prepared and certified by a licensed professional engineer or land surveyor that represents the actual dimensions, contours, and elevations of a completed stormwater facility.

*Authorized Enforcement Agency* means employees or designees of the municipal agency designated to enforce this ordinance.

*Best Management Practices (BMP's)* here refers to schedules of activities, prohibitions of practices, general good house-keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMP's are of two types: "source controls" (nonstructural) and "treatment controls" (structural.) Source controls are practices that prevent pollution by reducing potential pollutants at their source, before they come into contact with stormwater. Treatment controls remove pollutants and reduce runoff of stormwater. The selection, application and maintenance of BMP's must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. Specific BMP's may be imposed by the City and are discussed further in Section 15-204 (A).

*Car* means any vehicle meeting the definition for a passenger car, passenger van, pickup truck, motorcycle, recreational vehicle or motor home.

*City* means the City of Ottawa, Kansas.

*City Engineer* means the City Engineer as contracted with by the City of Ottawa or the City Engineer's authorized representative.

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*City Manager* means the City Manager or his/her designee

*Clearing* means any activity that removes the vegetative surface cover.

*Code* means the Ottawa Municipal Code.

*Commercial* means pertaining to any business, trade, industry, or other activity engaged in for profit.

*Construction Activity* means the activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbances of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*Construction Site* means any location where construction activity occurs.

*Contaminated* means containing harmful quantities of pollutants.

*Contractor* means any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

*Discharge* means any addition, release, or introduction of any pollutant, stormwater or any other substance whatsoever into the MS4 or surface waters.

*Discharger* means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.

*Domestic Sewage* means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from industrial waste.

*Drainage Way* means any channel that conveys surface runoff throughout the site.

*Earthwork* means the disturbance of soils on a site associated with clearing, grading, or excavation activities.

*Environmental Protection Agency (EPA)* means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

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*Erosion* means the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or land disturbance activities.

*Erosion and Sediment Control Plan* means a plan for the control of soil erosion and sedimentation resulting from land disturbance activities, and may include, without being limited to, the drawings, specifications, construction documents, schedules, or other related documents which establish the best management practices (BMPs) on a project. The plan shall include any information required to review the design of the BMPs and ensure proper installation, maintenance, inspection, and removal of the BMPs, along with the details required to construct any portion of the final storm sewer system that was impeded by a BMP.

*Erosion and Sediment Control Standards* means the erosion and sediment control design criteria and specifications adopted in writing by the City of Ottawa.

*Facility* means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

*Fertilizer* means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

*Garbage* means rancid animal, vegetable, and yard waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

*Grading* means excavation or fill of material, including the resulting conditions thereof.

*Groundwater* means any water residing below the surface of the ground or percolating into or out of the ground.

*Harmful Quantity* means the amount of any substance that the City Manager or authorized enforcement agency determines will cause an adverse impact to storm drainage system or will contribute to the failure of the City to meet the water quality based requirements of the NPDES permit for discharges from the MS4.

*Hazardous Materials* means any material, including any substance, waste or combination thereof, which because of its quantity, concentration, or physical chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Hazardous Substance* means any substance listed in Table 302.4 of 40 CFR Part 302.

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*Hazardous Waste* means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

*Household Hazardous Waste (HHW)* means any material generated in a household (including single and multiple residences) that would be classified as hazardous pursuant to K.A.R. 28-29-23b.

*Illegal Discharge* see illicit discharge below.

*Illicit Discharge* means any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 15-201(B)(5) of this ordinance.

*Illicit Connection* is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

*Industrial Waste (or commercial waste)* means any wastes produced as a byproduct of any industrial, institutional or commercial process or operation, other than domestic sewage.

*KDHE* means the Kansas Department of Health and Environment, or any duly authorized official of the Kansas Department of Health and Environment acting on its behalf.

*Land Disturbance Activity* means any activity that changes the physical conditions of landform, vegetation and 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, filing, logging and storing of materials.

*Land Disturbance Permit* means the local permit required by the City of Ottawa for any land disturbance activity occurring in a given area.

*Maintenance Agreement* means a recorded document that acts as a property deed restriction and which provides for long-term maintenance of a stormwater facility. A stormwater easement, if appropriate terms and conditions are incorporated into the document, may be deemed by the City a “maintenance agreement” for purposes of this regulation.

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*Municipal Separate Storm Sewer System (MS4)* means the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, man-made channels, storm drains, or detention basins and ponds owned and operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage.

*NPDES* means the National Pollutant Discharge Elimination System; the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the federal Clean Water Act.

*NPDES Permit* means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Non-Point Source Pollution* means pollution from any source other than from a discernible, confined and discrete conveyance and shall include, but not limited to, pollutants from agricultural, forestry, mining, development, subsurface disposal and urban stormwater runoff sources.

*Non-Stormwater Discharge* means any discharge to the MS4 that is not composed entirely of stormwater.

*Notice of Intent (NOI)* means the notice of intent that is required by either the industrial general permit or the construction general permit.

*Notice of Termination (NOT)* means the notice of termination that is required by either the industrial general permit or the construction general permit.

*Notice of Violation (NOV)* means a written notice detailing any violations of this Chapter and any action(s) expected of the violators, and the time frame within which said actions must be completed.

*Oil* means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

*Owner* means the person who owns a facility, part of a facility, or land.

*Perennial Vegetation* means grass or other appropriate natural growing vegetation that provides substantial land cover, erosion protection and soil stability and that is capable of sustained and healthy growth over multiple years under the constraints of shade, temperature, and moisture that will be prevalent on the site. For the purposes of this Chapter, annual grasses that do not regenerate after winter, ornamental plants or shrubs that do not offer effective erosion and

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sediment protection, and plants that are not suitable for the expected growing conditions on the site shall not be considered perennial vegetation.

*Perimeter Control* means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

*Permit* means a Building Permit for construction of a building, Land Disturbance Permit, Public Improvement Permit or Right of Way Permit.

*Permit Holder* means the owner or contractor who is issued a permit pursuant to this Chapter. The permit holder may designate a separate contact person regarding field issues related to erosion and sediment control.

*Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

*Pesticide* means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest or substances intended for use as a plant regulator, defoliant, or desiccant.

*Pet Waste (or Animal Waste)* means excrement and other waste from domestic animals.

*Petroleum Product* means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

*Phasing* means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

*Pollutant* means any substance attributable to water pollution, including but not limited to rubbish, garbage, solid waste, litter, debris, yard waste, pesticides, herbicides, fertilizers, pet waste, animal waste, domestic sewage, industrial waste, sanitary sewage, wastewater, septic tank waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste, soil and sediment.

*Pollution* means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.



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*Point Source* means any discernible, confined, and discrete conveyance including, but not limited to: any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

*Potable Water* means water that has been treated to drinking water standards and is safe for human consumption.

*Private Drainage System* means all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

*Public Improvement Plans* means engineering drawings subject to approval by the City Engineer for the construction of public improvements.

*Qualified Person* means a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements & generally accepted industry standards for such activity.

*Release* means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce any substance, directly or indirectly, or intentionally or unintentionally, into the MS4.

*Rubbish* means non-putrescible solid waste, excluding ashes, that consist of:

1. combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and
2. noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

*Sanitary Sewage* means the domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

*Sanitary Sewer* means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

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*Sediment* means any solid material, organic or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice, gravity, or artificial means as a result of soil erosion.

*Sedimentation* is the process by which eroded material is transported and deposited by the action of wind, water, ice, gravity, or mechanically by any person.

*Septic Tank Waste* means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.

*Shall* means mandatory; *may* means discretionary.

*Site* means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

*Solid Waste* means any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

*Stabilization* means the use of practices that prevent exposed soil from eroding

*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 System* means all surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.

*Stormwater* or *Stormwater Runoff* means runoff, surface flow, and drainage resulting from precipitation.

*Stormwater Easement* means a legal right granted by a landowner to a grantee to allow the use of private land for stormwater management purposes.

*Stormwater Management Program (SWMP)* means a document created by the City with the purpose of improving the environmental management of local, urban stormwater. Plans should have commission-wide commitment to both the plan and its implementation, a set of priorities for the management of urban stormwater, clearly stated strategic objectives, assessments of issues and threats with measurable environmental outcomes wherever possible, follow the principle of continuous improvement, and engage all stakeholders.

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*Stormwater Pollution Prevention Plan (SWP3)* means a plan for the control of pollutants, pollution, or soil erosion and sediment resulting from or during a land disturbance activity, complying with the City of Ottawa Post-Construction BMP Manual and may include, without being limited to, the drawings, specifications, construction documents, schedules, inspection reports, copies of permits or other related documents upon which stormwater water quality treatment best management practices to be used on a site are set forth.

*Stormwater Management Facility* means any structural or non-structural facility, or designated natural or restored open space, designed either to reduce the pollution load of stormwater, or to reduce the peak flow or volume of stormwater, or both.

*Surface Water* means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

*Uncontaminated* means not containing harmful quantities of pollutants.

*Used Oil (or Used Motor Oil)* means any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

*Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility. *Water of the State (or water)* means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

*Watercourse* means any body of water, including but not limited to lakes, ponds, rivers, creeks, streams, and bodies of water delineated by the City.

*Waters of the United States* means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “waters of the United States” at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

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*Wetland* means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

*Yard Waste* means leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

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**ARTICLE II. ILLICIT DISCHARGE**

**Sec 15-201 Purpose of Article.**

- A. Purpose. In order to promote the public health, safety, and general welfare of the citizens of the City of Ottawa, this Article acts to regulate non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4).
- B. Objective. The objectives of this ordinance are:
1. To regulate the contribution of pollutants to the municipal separate storm sewer (MS4) by stormwater discharges by any user.
  2. To prohibit illicit connections and discharges to the MS4.
  3. To establish legal authority to carry out all inspection and monitoring procedures necessary to ensure compliance with this ordinance.

**Sec 15-202 Prohibition of Illicit Discharges and Illegal Connections.**

A. General Prohibition

1. No person shall release or cause to be released into the MS4, or into any surface waters within the City, any discharge that is not composed entirely of stormwater that is free of pollutants, except as allowed elsewhere herein.
2. Notwithstanding any other provisions of this Article, any discharge shall be prohibited by this Article if the discharge in question has been determined by the City Manager or authorized enforcement agency to be a source of a pollutant to the MS4 or to surface waters.

B. Prohibition of Illicit Discharges. The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition, but are provided to address specific discharges that are frequently found or are known to occur:

1. No person shall knowingly dump, spill, leak, pump, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:
  - a) Any new or used motor oil, anti-freeze, or any other petroleum product or waste;

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- b) Any industrial waste
- c) Any hazardous substances or hazardous waste, including household hazardous waste;
- d) Any domestic sewage or septic tank waste, grease trap or grease interceptor waste, holding tank waste, or grit trap waste;
- e) Any garbage, rubbish, yard, or other waste;
- f) Any new or used paints, including latex-based paints, oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other associated products;
- g) Any wastewater that contains soap, detergent, degreaser, solvent or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment;
- h) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent, or any surfactant based cleaner;
- i) Any wastewater from commercial floor, rug, or carpet cleaning;
- j) Any wastewater from the (commercial) wash-down or other (commercial) cleaning of pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all such materials have been previously removed;
- k) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blow-down from a boiler;
- l) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
- m) Any runoff, wash-down water or waste from any animal pen, kennel, fowl, or livestock containment area;
- n) Any swimming pool, fountain, or spa water containing a harmful level of chlorine (>1 parts per million), muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
- o) Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine (> 1 parts per million) at the point of entry into the MS4 or waters of the United States;
- p) Any water from a water curtain in a spray room used for painting vehicles or equipment;
- q) Any contaminated runoff from a vehicle wrecking, salvage, storage, and recycling centers;
- r) Any substance or material that will damage, block, or clog the MS4
- s) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of

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pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state;

- t) Any other discharges that causes or contributes to causing the City to violate a state water quality standard, the City's NPDES stormwater permit, or any state-issued discharge permit for discharges from its MS4;
2. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation, or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures.
  3. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4. No property owner shall knowingly allow such a connection to continue in use on their property once known or identified.
  4. No person shall use pesticides, herbicides, and fertilizers except in accordance with manufacturer recommendations. Pesticides, herbicides, and fertilizers shall be stored, transported, and disposed of in a manner to prevent release to the MS4.
  5. Exemptions. The commencement, conduct, or continuance of any illicit discharge to the storm drain system is prohibited except as described as follows:
    - a) General/All
      - i. car or vehicle washing – noncommercial
      - ii. contaminated groundwater if authorized by KDHE and approved by the municipality
      - iii. crawl space pumps
      - iv. diverted stream flow
      - v. dye testing; provided that verbal notification is given to the municipality prior to the time of the test
      - vi. firefighting activities
      - vii. footing/foundation drains
      - viii. lawn watering or landscape irrigation
      - ix. natural riparian habitat
      - x. potable water source dischargers
      - xi. rising groundwater
      - xii. roof drains not interconnected to the MS4
      - xiii. street wash waters (excluding street sweepings which have been removed from the street)
      - xiv. swimming pool discharges – dechlorinated and not containing harmful quantities of chlorine or other chemicals and does not cause flooding or property damage and excludes filter backwash

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- xv. uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewer
- xvi. wastewater or other discharges that have been treated and meet the requirements of a NPDES permit
- xvii. water line flushing
- xviii. wet-land flows
- xix. other discharges determined by the City Manager not to be a significant source of pollutants to waters of the state, a public health hazard, or a nuisance or necessary to protect public health and safety

#### b) Residential

- i. driveway washing
  - ii. heat pump discharge waters
6. Notwithstanding the provisions of Subsection 15-201(B)(5) of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the City Manager or authorized enforcement agency to be a source of pollutants to the MS4 or surface waters, written notice of such determination has been provided to the property owner or person responsible for such discharges, and the discharge has occurred more than ten (10) working or business days beyond such a notice.

#### C. Prohibition of Illegal Connections/Actions

1. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.
2. This prohibition expressly includes, without limitations, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person knowingly connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. Illegal connections in violation of this Article must be disconnected and redirected as ordered by the City.
5. Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the MS4 must be located by the owner or occupant of that property upon receipt of written notice of violation from the City Manager requiring that such location be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is



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to be completed, that the drain or conveyance be identified as a storm sewer, sanitary sewer, or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer, or other discharge point be identified. Results of these investigations are to be documented and provided to the City. Upon receipt of the investigation results, the City shall direct the owner or occupant of the property in writing to complete such measures as are necessary to ensure compliance with this Article. It shall be unlawful for any such owner or occupant to fail to comply with the reasonable directions issued by the City in a timely manner.

6. On or after the effective date of this ordinance, any person who connects a drain or conveyance to the MS4 shall obtain a Stormwater Drainage System Connection Permit from the City prior to establishing any such connection.
7. No person shall tamper with, destroy, vandalize, or render inoperable any BMPs that have been installed for the purpose of eliminating or minimizing pollutant discharges, nor shall any person fail to install or fail to properly maintain any BMPs that have been required by the City or by other local, state, or federal jurisdictions.

#### **Sec 15-203 Other Specific Discharges.**

- A. Industrial or Construction Activity. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Ottawa prior to the allowing of discharges to the MS4.
- B. Watercourse Protection. Every person owning property, or such person's lessee, through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- C. Private Drainage System Maintenance. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- D. Materials Storage. In addition to other requirements of this Article, materials shall be stored in such a manner as to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is also prohibited.

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- E. Pet Waste. Pet and animal waste shall be disposed of as solid waste or sanitary sewage in a timely manner in order to prevent discharge to the storm drainage system.

**Sec 15-204 Authorization to Adopt and Impose Best Management Practices.**

- A. General. The City shall adopt and impose requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the MS4. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.
- B. Compliance Required. It shall be unlawful for any person to fail to comply with any required City BMPs.
- C. Damage to BMPs Unlawful. It shall be unlawful for any person to damage, destroy, or interfere with any implemented BMPs.

**Sec 15-205 Suspension of MS4 Access.**

- A. Suspension due to illicit discharges in emergency situations. The City of Ottawa may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimized danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Ottawa will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing, per Article I, Section 15-104.

It shall be deemed an offense if a person reinstates suspended MS4 access to premises without the prior approval of the authorized enforcement agency.

**Sec 15-206 Release Reporting and Cleanup.**

- A. Any person responsible for the release of any prohibited material that may flow, leach, enter, or otherwise be introduced into the MS4 or surface waters shall take all necessary steps to ensure the containment and cleanup of such release.

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- B. In the event of a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
  
- C. In the event of a release of non-hazardous materials, said person shall notify the City in person, by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed in a standard written form by the City to keep for its records.

**Sec 15-207 Monitoring of Discharges.**

- A. Right of Entry. Refer to Article I, Section 15-101(F).
  
- B. Records. Permitted stormwater dischargers shall make available upon request, any SWP3's, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this Article and with any State or Federal discharge permit.
  
- C. Sampling. The City or its authorized representatives shall have the right to set up on the discharger's property any such devices that are necessary to conduct sampling of stormwater discharges to monitor compliancy with the provisions of this Article.

**Sec 15-208 Enforcement and Penalties.**

Enforcement, penalties, and administration for violations shall be managed by Article I, Section 15-103.

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**ARTICLE III. EROSION AND SEDIMENT CONTROL**

**Sec 15-301 Purpose of Article.**

- A. Purpose. In order to promote the public health, safety, and general welfare of the citizens of the City of Ottawa, this Article acts to regulate and control the design, construction, use, and maintenance of any development and its BMPs from activities that disturb or break the topsoil or result in the significant movement of earth.

**Sec 15-302 General Provisions.**

- A. Any person undertaking land disturbance activities, including the clearing, grading, excavating, filling, storing, and disposing of soil and earth materials, shall comply with the requirements and standards set forth in this Article. Permit requirements for land disturbance activities are described in Section 15-302 of this Article.
- B. Responsible Person(s). The responsible person(s) are the owner of the property upon which a land disturbance takes place and any person(s) performing a land disturbance activity. When a Land Disturbance Permit or Building Permit is issued, an owner is responsible for land disturbance activities from permit issuance to closure, unless the City approves a transfer of responsibility to a new owner when land is sold. When land disturbance is authorized through the issuance of a permit pursuant to the Building Code, the owner remains responsible until that permit is closed and any open Land Disturbance Permits on the same property are closed according to Section 15-302(F).

**Sec 15-303 Land Disturbance Activities and Permits.**

- A. When required. A land disturbance permit (LDP) shall be obtained from the City prior to commencement of any of the following, unless exempted in 15-302(B):
1. Any activity that changes the physical conditions of landform, vegetation and 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.
  2. Any new development or redevelopment that cumulatively disturbs equal to one (1) acre or more of land and must complete a SWP3 in accordance with Section 15-107.
  3. Utility construction.
- B. Exemptions. A Land Disturbance Permit is not required for the following:

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1. Residential land disturbance activities that cumulatively disturb less than one (1) acre and are not part of a larger common plan of development or sale that disturbs a cumulative area of 1 acre or more. Residential projects less than one (1) acre shall implement effective erosion and sediment control techniques in accordance with City BMP standards.
  2. Work to correct or remedy emergencies, including situations that pose an immediate danger to life or property or substantial flood or fire hazards.
  3. Agricultural uses and nursery operations.
  4. Land disturbance activities specifically authorized by a building permit that includes an erosion and sediment control plan covering the entire area of disturbance. This exemption is not intended to exempt the building permit from erosion and sediment control requirements provided by Section 15-305.
  5. Land disturbance activities in the Special Flood Hazard Area shall adhere to the City of Ottawa Zoning Regulations, Article 19.
  6. Linear utility projects with less than 1,000 feet of cumulative open trench construction that are located outside the boundaries of a development project.
- C. Limitations of usage. Construction of a project with a final development plan approved by the City also requires a building permit. Construction of a project with a final development plan cannot be accomplished solely through a land disturbance permit.
- D. Applications.
1. Applications for land disturbance, site plan approval, or building permits shall be filed upon forms prescribed by the City and conform to the following:
    - a) Construction documents shall clearly indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this Article, and other relevant laws, rules and regulations as determined by the City Engineer; and
    - b) Shall include a site plan drawn to an engineer scale showing the size and location of new construction and existing structures on the site and the legal description of the lot tract or parcel; and
    - c) Shall include a grading plan, drainage map, and an erosion and sediment control plan in conformance with Section 15-305.

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2. Applications for land disturbance permits shall be submitted for approval by the City. Issuance of land disturbance permits shall conform to the following:
  - a) Where the proposed land disturbance activity covers multiple tracts of land or multiple lots, the permit shall be issued only to the common owner.
  - b) A contact person or field representative shall be identified on every permit as a responsible party whom the City can contact regarding the installation, maintenance, and removal of erosion and sediment control measures. The land disturbance permit holder is responsible for timely written notification to the City Manager of any changes to the contact person or field representative.
  - c) The land disturbance permit holder may request that the permit be transferred to another party. The transfer of a permit from one party to another shall be subject to the approval of the City Manager and not be effective until written approval is issued.
  - d) The owner of the property may designate, in writing, others to act on his or her behalf, however the responsibility for compliance with this Article with respect to land disturbance activities shall remain with the owner of the property until the issued permit has been officially closed.
- E. Fees. Application fees for all permit applications shall be established by resolution of the City Commission. Application fees may be reviewed on an annual basis and revised as necessary by adoption of a new resolution.
- F. Closure. Closure of a land disturbance permit is independent of closure of other permits.
  1. Stabilized Site. The site shall be considered stabilized when perennial vegetation, pavement, buildings or structures using permanent materials, cover all areas that have been disturbed. Perennial vegetation shall be considered established and completed for stabilization when it has established a healthy and growing stand with a density of at least 70 percent of undisturbed areas at the site.
  2. Partially Stabilized Site. If a site has been partially stabilized, a land disturbance permit shall be closed upon issuance of a subsequent land disturbance permit covering remaining unstabilized areas. Closure of a land disturbance permit shall be completed by obtaining a satisfactory final inspection and issuance of a certificate of compliance. Timing of final inspections for land disturbance permits shall conform to the following:

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- a) For phased residential development, where the permit holder seeks closure of the entire site subject to the permit, a final inspection can be completed after 80 percent of the housing units in the associated final plat have received final certificates of occupancy, or a minimum of three years after issuance of the first building permit for a housing unit. Additionally, no final inspection can be made before any temporary BMP's serving more than one lot are no longer needed and are removed.
- b) For development other than phased residential development, a final inspection can occur when all temporary BMPs serving more than one lot are no longer needed and are removed.
- c) For single-family or two-family construction only, the holder of a land disturbance permit that includes multiple lots shall no longer be responsible for activities that occur on an individual lot for which all dwellings have received certificates of occupancy. In that event there shall be a final inspection of that lot and partial closure of the land disturbance permit prior to or at the time of issuance of a certificate of occupancy.

**Sec 15-304 Expiration, Suspension and Revocation of Permits.**

- A. Expiration of Permits. Land disturbance permits shall expire if the authorized work has not commenced within 180 days after permit issuance. A land disturbance permit shall not expire after land disturbance activities have begun, but shall be closed according to Section 15-302(F).
- B. Suspension of Permits. Suspension of land disturbance permits shall comply with the following:
  - 1. A land disturbance permit can be suspended by the City if determined that:
    - a) The site is not in substantial compliance with the approved plan or any permit condition.
    - b) A violation of any provision of this Article or any other applicable law, Article, rule, or regulation relating to this work exists.
    - c) A condition exists, or act is being done that constitutes a nuisance or hazard or endangers human life or the property of others.
    - d) The approved plan is failing to achieve required erosion and sediment control objectives due to improper installation, maintenance, or failure

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of the plan to perform anticipated erosion and sediment control functions as required by Section 15-305.

2. A land disturbance permit shall be suspended by issuance of written notice to the permit holder, or the permit holder's representative. The notice shall indicate the reason for permit suspension and indicate corrective measures required and the timeframe within which corrections must be made to reinstate the permit. The notice shall also include a stop work order according to Section 15-103(C)(1), if not previously issued. If the applicant fails to make corrective measures within the timeframe required the City Manager may revoke the permit.
- C. Revocation of Permits. A permit may be revoked by the City issuing the permit at any time prior to the completion of the land disturbance when it appears that one or more of the following conditions is present:
1. There is departure from the plans, specifications or conditions as required under the terms of the permit;
  2. The permit was procured by false representation;
  3. The permit was issued by mistake; or
  4. Any of the provisions of this Article are being violated.

Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which such permit was issued, or shall be posted in a prominent location on the property. Where notice of revocation has been served or posted, no further construction or use of the property shall proceed. Any revocation of a permit other than a building permit may be appealed to the City Commission. A revoked permit may not be reinstated, except where revocation of a building permit is successfully appealed to the Construction Board of Appeals.

#### **Sec 15-305 Other Permits.**

##### **A. Building Permits and Compliance**

1. Compliance with existing land disturbance permits. Issuance of any building permit that is part of a common plan of development with a pre-existing land disturbance permit, will require written agreement by the permit applicant to comply with the provisions of the pre-existing land disturbance permit.
2. Closure. Closure of a building permit shall be completed in accordance with the provisions of Section 15-302(F). In cases where there is not a separate land



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disturbance permit issued for a particular site, a final certificate of occupancy shall not be issued until the site has been permanently stabilized and all temporary BMP's removed and all drainage and grading is found to be in compliance with this Article.

- B. General Permit for Franchised/Public Utilities. In lieu of obtaining individual project Land Disturbance Permits for utility-funded linear projects, the City may issue a General Permit to franchise and public utilities that shall be renewed annually. To apply for a General Permit, the utility must submit a permit application which includes:
1. Effective erosion control standards and construction methods that are to be implemented on the utility's projects, conforming to Section 15-305. The General Permit does not relieve the utility of the responsibility of preparing and implementing project specific SWP3, as defined by the State of Kansas, for projects disturbing over one (1) acre of area.
  2. A procedure to notify the City, no less than fourteen (14) days prior to work beginning, of projects disturbing a cumulative area greater than one (1) acre. The notification shall be accompanied by a copy of SWP3 and the associated KDHE NOI.
  3. A mechanism to reimburse the City for the cost of all abatement actions. The City Manager may revoke a Land Disturbance General Permit for failure to reimburse City abatement costs within sixty (60) days of receipt of an abatement invoice. The utility must notify the City Manager in writing within fourteen (14) days of any State or Federal citations related to erosion and sediment control violations in the City.
  4. The City Manager shall revoke any general permit when the activities authorized by that General Permit cause the City of Ottawa to be noncompliant with the NPDES permit.

#### **Sec 15-306 Erosion and Sediment Control Plans.**

- A. All proposed land disturbance activity that requires a permit in accordance with Section 15-302 shall be depicted on a site-specific Erosion and Sediment Control Plan. Land disturbance activities that do not require a permit in accordance with Section 15-302(B) are required to employ applicable BMPs included in standard details provided by the City. For persons not subject to permit requirements, any pollutants or sediment found emanating from a site or parcel may constitute a violation of Article II.
- B. Other Pollutants. In addition to sediment, the Erosion and Sediment Control Plan shall provide for the control of other pollutants related to the land disturbance activity that might cause an adverse impact to water quality, including, but not limited to, discarded

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building materials, concrete truck washout, fuel, hydraulic fluids, chemicals, litter, and sanitary wastes.

#### C. Design Requirements.

1. Where land disturbance activities have temporarily or permanently ceased on a portion of a project site for over fourteen (14) consecutive days, the disturbed areas shall be protected from erosion by stabilizing the areas with mulch or other similarly effective soil stabilizing BMPs. If seeding or other vegetative erosion control method is used, it shall become established in two (2) weeks or the City may require the site to be reseeded or a non-vegetative option employed, unless the timeframe for compliance is extended by the City Engineer. Where implementation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.
2. Cut and fill slopes shall not exceed 3:1, except as approved by the City Engineer to meet other community or environmental objectives.
3. Erosion and sediment controls shall not obstruct any existing or built drainage ways.
4. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except as approved by the City Engineer. Clearing techniques that retain natural vegetation and drainage patterns shall be upon approval of the City Engineer.
5. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
6. Phasing shall be required on all sites disturbing greater than thirty (30) acres, with the size of each phase to be established at plan review and as approved by the City Engineer.

#### D. The Erosion and Sediment Control Plan shall include the following:

1. A natural resources map identifying soils, forest cover, and resources.
2. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

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3. All erosion and sediment control measures necessary to meet the objectives of this Article throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
  4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
  5. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- E. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 15-107(B), and shall include:
1. Major amendments of the erosion and sediment control plan.
  2. Field modifications of a minor nature.
- F. Erosion control requirements shall include, but are not limited to, the following:
1. Special techniques for steep slopes or in drainage ways shall be used to ensure stabilization.
  2. Soil stockpiles must be stabilized or covered at the end of each workday.
  3. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
  4. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
  5. Techniques that divert upland runoff past disturbed slopes shall be employed.
  6. Sediment control requirements shall include:
    - a) Settling basins, sediment traps, or tanks and perimeter controls.
    - b) Settling basins that are designed in a manner that allows adaptation to provide long-term stormwater management.

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- c) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

7. Construction site access requirements shall include:

- a) A temporary access road provided at all sites.
- b) Other measures required by the City Engineer in order to ensure that sediment is not tracked into public streets by construction vehicles or washed into stormwater drains.

**Sec 15-307 Inspection.**

- A. Initial Inspection. The permit holder shall notify the City when initial erosion and sediment control measures are installed in accordance with the Erosion and Sediment Control Plan. No land disturbance activities shall begin prior to approval from the City that all pre-construction erosion and sediment control measures are correctly installed per the approved plan.
- B. Maintenance of Control Measures. All prescribed erosion and sediment control measures shall be maintained in good order and in compliance with the Erosion and Sediment Control Plan at all times.
- C. Routine Inspection. It shall be the duty of the permit holder to routinely inspect the construction site and maintain effective Erosion and Sediment Control measures. Routine inspections shall be performed once every 14 days and within twenty-four hours following each rainfall event of 1/4" or more within any twenty-four hour period. A log shall be kept of these inspections. Any deficiencies shall be noted in a report of the inspection and include the action taken to correct the deficiency. Inspection reports shall be submitted to the City Manager upon request. The inspection report shall include the following minimum information:
  - 1. Inspectors name.
  - 2. Date of inspection.
  - 3. Observations relative to the effectiveness of the erosion and sediment control measures.
  - 4. Actions necessary to correct deficiencies.
  - 5. Signature of person performing the inspection.

The City may also perform inspections of the land disturbance activity site to verify compliance with the Erosion and Sediment Control Plan. Should it be found that erosion and control methods are ineffective or are not being maintained properly, the City may take enforcement actions described in Article I, Section 15-103.

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D. Removal of Temporary Erosion and Sediment Control Measures. Subsequent to a satisfactory final inspection of the land disturbance, all temporary erosion and sediment control measures must be removed and the final segments of the storm sewer system shall be constructed in the manner described within the approved plans. Such removal shall be complete prior to closure of the permit that authorized the land disturbance.

**Sec 15-308 Enforcement and Penalties.**

Enforcement, penalties, and administration for violations shall be managed by Article I, Section 15-103.

**Sec 15-309 Miscellaneous.**

Effective Date. The provisions of this Chapter shall apply to all Land Disturbance activities that take place on or after \_\_\_\_\_.

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**ARTICLE IV. POST-CONSTRUCTION MANAGEMENT**

**Sec. 15-401 Purpose of Article.**

- A. Purpose. In order to promote the public health, safety, and general welfare of the citizens of the City of Ottawa, the purpose of this Article shall be to establish post-construction minimum stormwater management requirements and controls on any new development or redevelopment project(s) with subdivision or site plan applications.
- B. Objectives. This Article seeks to meet this purpose through the following objectives:
1. Minimize increases in stormwater runoff from any development in order to reduce non-point source pollution, siltation, and streambank erosion and maintain the integrity of stream channels;
  2. Minimize increases in non-point source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving bodies are classified as impaired on the most recent version of the 303d listing of impaired waters in Kansas as identified by KDHE;
  3. Reduce stormwater runoff rates, soil erosion, and non-point source pollution, wherever possible, through stormwater Best Management Practices (BMPs) and to ensure that these BMPs are properly maintained and pose no threat to public safety.

Within this Article, the term *Stormwater Management Facility* shall mean BMPs that are implemented or constructed in order to comply with this Article.

**Sec. 15-402 Waivers and Exemptions.**

- A. Exemptions. Owners of properties where the following activities are undertaken are exempt from the stated requirements.
1. Farming activities;
  2. Unplanned emergency work and emergency repairs necessary to protect life or property.
- B. Waivers. All or some of the required stormwater management facility standards may be waived by the City under the following circumstances:
1. If it can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance; or

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2. The City of Ottawa finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of the site; or
3. Engineering studies determine that installing a stormwater management facility in order to meet the stormwater management standard(s) will cause adverse impact to water quality, or cause increased channel erosion, or downstream flooding.

#### **Sec. 15-403 Design Criteria and Stormwater Design Plans.**

##### **A. Technical Specifications and Design Criteria**

1. Unless specifically stated and amended by a formal written policy statement by the City Manager, all stormwater management facilities required or constructed shall be designed and constructed in accordance with the latest edition of the Ottawa Post-Construction Stormwater BMP Manual. The Ottawa Post-Construction Stormwater BMP Manual is hereby incorporated by reference into this Article.
2. If hydrologic or topographic conditions warrant greater control than provided by the minimum control requirements set forth in the Ottawa Post-Construction Stormwater BMP Manual, the City Manager may impose additional requirements deemed necessary to control the pollutants in stormwater runoff. It shall be unlawful for any person to fail to comply with any additional requirements imposed by the City Manager as necessary to control the pollutants.

##### **B. General Requirements for Stormwater Design Plans**

1. Stormwater management facility design information shall be submitted as part of the preliminary plat, final plat, site plan and construction plans, in accordance with the policy and requirements established by the Planning Department pertaining to the Stormwater Management Study.

##### **C. Conformity to the Approved Plans**

1. Grading designs shown on approved master grading plans and the design of stormwater management facilities and controls shown on approved design plans shall be adhered to during grading and construction activities, in accordance with the Erosion and Sediment Control Plan stated in Section 15-305.
2. Grading and stormwater design plans shall be amended to meet all local ordinances and standards if the proposed site conditions change after plan approval is obtained, or if it is determined by the City during the course of grading or construction that the approved plan is inadequate.

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D. Provide an Operations and Maintenance Plan

1. If determined necessary by City Staff from review of the site plan and stormwater management study, an Operations and Maintenance Plan shall be included with the stormwater management facility design information submitted with the construction plan. The Operations and Maintenance Plan shall include the required operation and maintenance provisions, maintenance and inspection checklist for each stormwater management facility and water volume area that is serving, or will serve, the development or redevelopment.
2. A statement shall be included on the final plat and/or site plan that indicates the owner(s) responsibility for operation, maintenance, and inspection of the stormwater management facility(s) per Section 15-403.

E. Provide Stormwater Construction Information on As-Built Drawings

1. When it appears the stormwater management facility(s) is (are) not performing per the approved plans, new and complete as-built drawings may be requested by the City and shall be provided to the Planning and Codes Department, and shall include sufficient design information to show that the stormwater management facilities operate as designed under the approved stormwater management study.
2. The as-built drawings shall be prepared and stamped by a Professional Engineer licensed to practice in the State of Kansas.

**Sec. 15-404 Stormwater Management Facility Maintenance and Operations.**

A. Maintenance Responsibility. The landowner of the property on which the stormwater management facility(s) has been constructed pursuant to this Article, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

1. Maintenance Schedule. A maintenance schedule shall be developed for any stormwater management facility(s) and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be incorporated into the maintenance agreement and shall be followed by subsequent responsible parties.
2. Pollutant Removal for Maintenance. The removal of pollutants, sediment, and/or other debris for the purpose of maintenance of stormwater management facilities shall be performed in accordance with all City, State, and Federal laws.



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3. Preserve Approved Grading Designs. Re-grading an individual lot or lots, or portions of a lot or lots, in a manner that is not in accordance with the approved master grading plan, such that the direction(s) of stormwater runoff is altered from the direction that would occur under the approved master grading plan, shall be considered in violation of this Article.
4. Preserve Existing Drainage Paths. Blockage of a channel, ditch, stream, any other drainage path or stormwater management facility shall be considered a violation of this Article.

**Sec. 15-405 Stormwater Management Facility Inspection.**

A. Inspection.

1. Notice by City. The City may periodically inspect these privately owned stormwater management facility(s). If the stormwater management facility is not operating as shown in the as-built drawing, or should conditions be found that cause or may cause the pollution of downstream receiving waters or the flooding of adjacent or downstream properties, the City may issue a notice of violation in accordance with the enforcement provisions in Article I, Section 15-103. The City may order the property owner(s) to perform corrective actions as are necessary to implement the proper operation of these facilities for the purposes of flood prevention, public safety, and/or to ensure compliance with jurisdictional regulatory conditions.
2. After Construction. Once the site has been stabilized and construction has ceased, the property owner or his/her appointed designee shall conduct routine inspections for the stormwater management facility(s) based on the guidance provided in the Operations and Maintenance Plan.
3. Reports. After construction on the property is complete, the property owner(s) shall provide to the City, on an annual basis, a completed and signed copy of the inspection report for each stormwater management facility that is included with the Operations and Maintenance Plan for the property. The inspection report is due every two years after the date (month and day) of approval of the as-built plan for the property.
4. Records. The property owner(s) shall make available upon request any self-inspection reports, monitoring/maintenance records, compliance evaluations, notices of intent, and any other records, reports, receipts, and other documents related to compliance with this Article with any related City, State, or Federal permit.

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5. Access Easement. All City maintained open channels must have a minimum ten (10) foot wide maintenance access on each side of the stream as measured from the top-of-bank of each side of the stream.

**Sec. 15-406 Enforcement and Penalties.**

Enforcement, penalties, and administration for violations shall be managed by Article I, Section 15-103.