

City of Hays

Stormwater
Management
Program

February 2015



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1.0 Introduction

This Stormwater Management Plan (SMP) is designed to reduced discharge of pollutants from the City of Hays's Municipal Separate Storm Sewer System (MS4) to the Maximum Extent Practical (MEP), to protect water quality and to satisfy the appropriate requirements of the Clean Water Act and Kansas surface water quality statutes and regulations. The contents are expected to change over time due the process of developing the SMP as recognized by the Kansas Department of Health and Environment (KDHE) and the Environmental Protection Agency (EPA). KDHE and the EPA expect that it will take a minimum of two MS4 general permit terms to fully develop and implement the SMP. The first permit issued in 2004 focused primarily on information gathering, organization, development of required programs, and initial implementation. The SMP will need to be amended and updated during this the second permit cycle based on observations of the effectiveness of existing program components and to address the terms and conditions of the new permit. The document is meant to be a "living" document that will be updated and revised on an annual basis to reflect accomplishments, changes to program components, and additions of other components.

This SMP address the requirements of the Kansas Water Pollution Control General Municipal Separate Storm Sewer System Permit and authorization to discharge under the National Pollutant Discharge Elimination System (NPDES); Permit No. M-SH16-SN01, effective February 1, 2014 and expiring January 31, 2019.

The City of Hays has approximately 20,000 residents encompassing 5,800 acres in central Ellis County, Kansas. The City of Hays is located within the Rolling Plains and Breaks of the Central Great Plains. The region once a broad expanse of mixed-grass prairie now resembles a mosaic of cropland and rangeland. The City of Hays is located within the Big Creek Drainage (HUC-1026007) which includes sub-basins City of Hays (HUC-102600070303) and Chetolah Creek (HUC-102600070304). Big Creek and its tributaries are listed as impaired under Section 303(d) of the Clean Water Act.

The City of Hays manages stormwater via its Public Works Department - Stormwater Division and its Stormwater Utility Fee established on July 1, 2011. The Stormwater Division currently has a budget of approximately \$800,000, employs one staff directly, and is assisted by other city staff as needed.

2.0 Notice of Intent (NOI) Information

The City of Hays originally notified KDHE of its intent to be covered by MS4 General Permit in 2006. This section is intended to update the information originally provided to KDHE.

Name and address of the permit applicant and local contact:

Applicants Municipality Name

City of Hays, Kansas

Mailing Address

1002 Vine Street

City, State, and Zip Code

Hays, KS 67601

Type of Municipality:

State ___ County ___ City/Town X Township
Other ___ (type) _____

Local Contact Name

Steven Walters

Phone Number

(785)623-7350

Title

Stormwater Specialist

Email address

swalters@haysusa.com

2. Applicant hereby makes application for a permit to discharge stormwater into:

(

- | | BASIN |
|----|---------------|
| 1. | Smoky -Saline |
| 2. | _____ |
| 3. | _____ |
| 4. | _____ |

- | | SUBBASIN(s) |
|--|----------------|
| | Big (10260007) |
| | _____ |
| | _____ |
| | _____ |

3.0 Stormwater Management Plan (SMP)

3.1. Requirements of the MS4 General Permit

The City of Hays shall revise and update the SMP to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, continue to implement the six minimum control measures, and satisfy the requirements of the permit, the Clean Water Act, and Kansas surface water quality statutes and regulations.

3.2. SMP Development and Compliance Timeline

The City of Hays shall revise and update the written SMP and submit the SMP to KDHE by February 28, 2015. The SMP is intended to be a “living document that will need updated as appropriate to reflect accomplishments, changes to program components, and additions of other components.

KDHE has set a timeline for compliance activities over the life of permit (2014-2018) and they are as follows:

Year 2014: Complete inventory of maps of outfalls, streams, and lakes in the targeted areas, select drainage basins and sub-basins as candidates for structural or non-structural BMPs, select and initiate, or continue existing effective plans for source control programs targeted to the TMDL pollutants. By July 2014, implement new source control programs and the initial stormwater monitoring program.

Year 2015: Continue the source control programs and monitoring of storm events at selected sites.

Year 2016: Continue source control programs and monitoring of storm events at selected sites. By July 1, 2016 select, design, and initiate installation of appropriate structural BMPs.

Year 2017; Continue BMP installation and/or source control programs and stream/lake/BMP outfall monitoring as appropriate. Complete BMP installations by the end of the year.

Year 2018: Continue stream/lake/BMP monitoring and effective source control programs.

Yearly reports are required by February 28 of the subsequent year. Details of the requirements the yearly report can be found in section 3.3. By February 28, 2019, a

final report summarizing the effectiveness of source controls and structural BMPs to achieve the measurable goals and water quality data from selected monitoring sites will be submitted to KDHE.

3.3. Reporting

The City of Hays will submit a calendar year annual report to KDHE by February 28 of each year with the initial report due in 2015 for the calendar year 2014. The report will cover the activities during the previous calendar year and must include the following;

- 3.3.1. The status of compliance with permit conditions, an assessment of the appropriateness of the BMP, progress towards achieving the statutory goal of reducing the discharge of pollutants to the maximum extent practicable, and the measurable goals (with an indication of the progress toward meeting the goals) for each of the six minimum control measures and TMDL's listed in the Stormwater Management Program document;
- 3.3.2. Results of information collected and analyzed, if any, during the annual reporting period, including monitoring data used to assess the success of the program at reducing the TMDL regulated pollutants;
- 3.3.3. A summary of the stormwater activities that were scheduled to be undertaken during the previous calendar year and the status of these activities;
- 3.3.4. A summary of the stormwater activities which are scheduled to be undertaken during the next reporting cycle (including an implementation schedule);
- 3.3.5. A map showing changes in the City of Hays's jurisdictional permit area
- 3.3.6. Description of significant changes in any of the BMPs including those in the SMP implementing the six minimum control measures;
- 3.3.7. Updated ordinances or resolutions associated with the SMP or the six minimum control measures shall be provided with the annual reports;
- 3.3.8. A list of other parties, if any, which will be responsible for implementing any of the program areas of the Stormwater Management Program.

3.4. SMP Minimum Control Measure Requirements

The City of Hays SMP will include the following information for each of the six minimum control measures (MCM) described in Section 4.0 of this SMP in detail:

- 3.4.1. BMP's that the City of Hays or another entity will implement for each MCM;
- 3.4.2. Measurable goals for each of the BMP including, as appropriate the months and years in which the City of Hays will undertake required actions, including interim milestones and the frequency of the action;
- 3.4.3. Person, or persons, responsible for implementing or coordinating the BMP for the City of Hays's SMP

3.5. Modifications to the SMP

3.5.1. Minor Modifications

Within 60 days of a determination by the City of Hays or by written notification from KHDE, the City of Hays will modify the BMP if modifications are needed to achieve the goals of the program.

3.5.2. Major Modifications

Within 60 days of determination by the City of Hays or by written notification from KDHE, the City of Hays shall provide a plan and schedule for the upgrade/replacement of the BMP. The plan and schedule are subject to KDHE approval.

4.0 MS4 Six Minimum Control Measures

4.1. Public Education and Outreach

The City of Hays shall implement a public education program which includes distribution of educational materials to the community or conduct equivalent outreach activities which address the impacts of stormwater discharges on water bodies and the steps the public can take to reduce pollutants in stormwater runoff.

Public Education and Outreach BMP Implementation

Evaluation of the success of this minimum control measure will be through careful analysis of the measurable goals for each BMP included in this minimum control measure.

In order to meet the requirements of this minimum control measure, the City of Hays will implement the following BMPs:

| Table 4.1 Public Education and Outreach | | | |
|--|---|---|---|
| BMP Number | Brief Description | Measurable Goal(s) | Measured Result(s) |
| 4.1.1 | Contract with Kansas State University to provide Public Education and Outreach materials and programs | 1) Signed Contract | 1) Annually Signed |
| | | 2) Distribution of including type and quantity | 2) Number of Brochures Distributed |
| | | 3) Planning and execution of public events and programs | 3) Number of Events/Programs and attendance |
| 4.1.2 | Update and maintain the stormwater webpage on the City of Hays website | The website will provide pertinent information to a diverse range of stakeholders | 1) Review and Update webpage annually |
| | | | 2) Number of visitors to website |

4.1.1. The City of Hays will enter into a contract annually with Kansas State University to implement the Public Education and Outreach requirements of the permit. The program will include a wide variety of information and programs aimed at a diverse range of stakeholders and constituents. The overall goal of the BMP will be to engage and inform the residents of the City of Hays on stormwater related issues primarily focusing on TMDL related issues. The BMP will include but not limited to distribution of brochures, field days, and presentations. The overall success of the BMP will be evaluated based on the number of stakeholders and constituents reached through the education and outreach efforts. The BMP will be reviewed on an annual basis and adjustments made as deemed necessary

4.1.2. The City of Hays will update and maintain a webpage on the City of Hays website (www.haysusa.com). The website will provide educational and regulatory information pertinent to stormwater issues. The overall success of the BMP will be based on the number of webpage visitors. The webpage will be evaluated and updated on an annual basis.

4.2. Public Involvement and Participation

The City of Hays shall implement a public involvement and participation program to solicit public comment and recommendations regarding the BMPs and measurable goals utilized by the City of Hays to comply with the permit. The City of Hays will comply with State and local public notice requirements when implementing a public involvement and participation program.

Public Involvement and Participation BMP Implementation

The measurable goals for each BMP for the Public Participation and Involvement minimum measure will be used to evaluate the success of each BMP. The following sections describe the components of City of Hays Public Involvement/Participation program: In order to meet the requirements of this minimum control measure, the City of Hays will implement the following BMPs:

| Table 4.2 Public Involvement and Participation | | | |
|---|---|--|--------------------------------------|
| BMP Number | Brief Description | Measurable Goal(s) | Measured Result(s) |
| 4.2.1 | Maintain a community/stormwater hotline. | A 24-hour hotline will be developed to provide citizens with a method of reporting stormwater pollution or polluting activities. | Log # of calls per year |
| 4.2.2 | Provide Citizens and Stakeholders the opportunity to comment on projects and programs funded through the Stormwater Utility | 1) Follow local and state laws regarding public notice for stormwater projects to allow public comment and participation | 1) Number of Projects/Public Notices |
| | | 2) Provide update regarding stormwater activities and regulations to the City Commission | 2) Annual update |

4.2.1 The City of Hays will maintain a stormwater hotline for citizens and stakeholders to report stormwater pollution, polluting activities, and other stormwater related concerns. The number has been designated as 785-623-7350 which is the main number to the City of Hays Public Works Department. Calls will be logged and concerns addressed in a timely and efficient matter based on nature of the concern. The number of calls will be recorded and reported on annual basis for permit compliance

4.2.2 The City of Hays will provide citizens and stakeholders the opportunity to comment on projects and programs funded through the stormwater utility. In general, the City of Hays will follow local and state laws regarding public notice for stormwater projects and proposed changes to local law. In addition, the stormwater utility will provide an annual update to the City Commission to inform citizens of the past accomplishments of the stormwater utility and the future planned projects.

4.3 Illicit Discharge Detection and Elimination

The City of Hays will develop, implement, and enforce a program to detect and eliminate illicit discharges into the MS4. Develop a storm system sewer map of the MS4, showing the location of all outfalls, either pipes or open channel drainage, showing the names and locations of all streams or lakes that receive discharges from those outfalls. A copy of the map will be submitted to KDHE. Enact ordinances or resolutions to prohibit non-stormwater discharges, including illegal dumping, to the storm sewer system. Unless identified by either the permittee or KDHE as a significant source of pollutants to waters of the state. In order to meet the requirements of this minimum control measure, the City of Hays will implement the following BMPs:

| Table 4.3 Illicit Discharge Detection and Elimination | | | |
|--|---|---|--|
| BMP Number | Brief Description | Measurable Goal(s) | Measured Result(s) |
| 4.3.1 | Maintain a storm sewer outfall map | All public storm sewer outfalls discharging to waters of the U.S. will be mapped and verified | Verify and update annually |
| 4.3.2 | Maintain an illicit discharge detection and elimination ordinance | Adopt and enforce an ordinance that prohibits illicit discharges and provides for an enforcement mechanism. | Review ordinance annually for compliance |
| 4.3.3 | Public Education and Outreach | See 4.1 | See 4.1 |

4.3.1 The City of Hays will maintain a storm sewer outfall map which details all public storm sewer outfalls discharging to waters of the U.S. The outfalls will be updated and verified on annual basis. The overall success of the BMP will be the accuracy and maintenance of the data.

4.3.2 The City of Hays will maintain and enforce an ordinance that prohibits illicit discharges and provides for an enforcement mechanism. The ordinance can be found in Appendix D. The overall success of this BMP will be measured based on the number of people educated and informed of the prohibited discharges outlined in the ordinance. Instances of illicit discharges will logged and reported on a annual basis.

4.3.3 The City of Hays in conjunction with the public education and outreach BMP will distribute information pertaining to illicit discharge detection and elimination to educate citizens. The information and overall success of this BMP will be based on the goals and results outlined in section 4.1.

4.4 Construction Site Stormwater Runoff Control

The City of Hays will develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the MS4 from construction activities that result in a land

disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction is part of a larger common plan of development or sale that would disturb one acre or more. The program must include the development and implementation, at a minimum of the following:

- a) The City of Hays will enact ordinances or resolutions to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State and local law;
- b) Requirements for construction site owners or operators to implement appropriate erosion and sediment control best management practices;
- c) Requirements for construction site owners or operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that are likely to cause adverse impacts to water quality;
- d) Procedures for site plan review which incorporate consideration of potential water quality impacts;
- e) Procedures for receipt and consideration of information submitted by the public;
- f) Procedures for site inspection and enforcement measures.

The City of Hays will meet the requirements of this minimum control measure through the following BMPs:

| Table 4.4 Construction Site Stormwater Runoff | | | |
|--|--|--|---------------------------|
| BMP Number | Brief Description | Measurable Goal(s) | Measured Result(s) |
| 4.4.1 | Require at a minimum a SWPPP for any land disturbance equal to 1 acre or greater via ordinance | # of developments | Review as needed |
| 4.4.2 | Establish procedures for the review of SWPPP prior to building permit issuance | # of developments | # of plans reviewed |
| 4.4.3 | Contractor/Developer education | Provide training and materials to contractors and developers as needed | # of developments |
| 4.4.4 | Maintain a design criteria manual for storm water infrastructures | The design criteria manual will establish requirements for stormwater planning | Review manual annually |

4.4.1 The City of Hays through the adoption and enforcement of an ordinance will require all land development disturbing 1 acre or more to submit a SWPPP that meets the requirements of KDHE. Additionally, the City of Hays will require all developments meeting the requirements for a General Construction Permit through KDHE acquire said permit before proceeding with the proposed development. The overall goal and success of this BMP will be measured by the percentage of land developments meeting the requirements of federal, state, and local stormwater regulations

4.4.2 The City of Hays will establish procedures for the review SWPPP prior to issuance of a building permit where applicable. In general the procedures will evaluate all building permits to ensure federal, state, and local stormwater regulations are understood and met during the planning process. SWPPP will be reviewed prior to issuance of building permits to ensure the proposed development does not adversely impact water quality. The overall success and goal of the permit will be measured by the percentage of developments meeting federal, state, and local regulations.

4.4.3 The City of Hays will provide informal or formal education to land developers, utilities and contractors regarding local, state, and federal regulations pertaining to stormwater. The overall goal of the BMP is to educate contractors and developers of existing and new regulations and the success of the BMP will be measured by the number of contractors and developers educated.

4.4.4 The City of Hays will maintain a stormwater design criteria manual that establishes requirements for stormwater planning. The manual details the requirements for stormwater planning and the submittal requirements for issuance of a building permit. The manual will be reviewed and updated, if necessary, annually to ensure compliance with appropriate state and federal laws.

4.5 Post-Construction Stormwater Management in New Development and Redevelopment Projects

The permittee shall develop, implement, and enforce a program to address post-construction stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acres, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4. The program must include the development and implementation, at a minimum, of the following;

- a) BMP's to prevent or minimize adverse water quality impacts;
- b) Strategies which include a combination of structural and/or non-structural BMP's appropriate for the municipality;
- c) For permittees which have the authority, ordinances or resolutions to address post-construction runoff from new development and redevelopment projects to the extent allowable under State and local law;
- d) Ensure adequate long-term operation and maintenance of BMPs

The City of Hays will meet the requirements of this minimum control measure through the implementation of the following BMPs:

Table 4.5 Post-Construction Site Stormwater Management in New Development and Redevelopment

| BMP Number | Brief Description | Measurable Goal(s) | Measured Result(s) |
|------------|--|---|----------------------------------|
| 4.5.1 | Adopt and maintain a Post Construction BMP | 1) The manual will show design criteria for stormwater infrastructure and water quality requirements | Review manual/ordinance annually |
| | | 2) Adopt ordinance in 2015 | |
| 4.5.2 | Adopt and maintain a stream buffer ordinance | 1) Develop an ordinance that requires buffers along stream corridors to ensure the protection of waterways | Review ordinance annually |
| | | 2) Adopt ordinance in 2015 | |
| 4.5.3 | Develop and maintain a program for the inspection and maintenance of stormwater infrastructure including public and private. | 1) Establish a program for the inspection and maintenance of public infrastructure | Review program/policy annually |
| | | 2) Establish a program for the inspection and maintenance of private infrastructure | |
| 4.5.4 | Maintain a design criteria manual for storm water infrastructure | The design criteria manual will establish requirements for stormwater management plan submittal requirements. | Review manual annually |

4.5.1 The City of Hays is proposing to adopt a Post Construction BMP manual in early 2015 that establishes requirements for developments greater than or equal to 1 acre. The manual will detail development requirements to treat a certain volume or depth of storm water runoff. The goal and overall success of this BMP will be the adoption, maintenance, and enforcement of the ordinance.

4.5.2 The City of Hays is proposing to develop and adopt a Stream Buffer Ordinance in 2015 that will protect waterways in new development. In general the ordinance will require buffers of varying width in feet depending on watershed size. The goal and overall success will be measured by the adoption, maintenance, and enforcement of the proposed ordinance.

4.5.3 The City of Hays will develop and maintain a program for the inspection and maintenance of both public and private infrastructure. The program will be developed to ensure infrastructure including but not limited to inlet structures, sewer pipe, retention/detention structures, and waterways are functioning as intended. The overall goal is to develop a program that ensures the long-term function of stormwater infrastructure.

4.5.4 The City of Hays will maintain design criteria manual for storm water infrastructure that details requirements for various types of stormwater infrastructure. The manual will be reviewed annually and adjustments made as necessary.

4.6 Pollution Prevention/Good Housekeeping for Municipal Operations

The permittee shall develop and implement an operation and maintenance program that includes employee training to prevent and reduce stormwater pollution from municipal operations activities such as park and open space maintenance, fleet and building maintenance, new construction land disturbances, and stormwater maintenance. The City of Hays will meet the requirements of this minimum control measure through the implementation of the following BMPs:

Table 4.6 Pollution Prevention/Good Housekeeping for Municipal Operations

| BMP Number | Brief Description | Measurable Goal(s) | Measured Result(s) |
|-------------------|---|--|--|
| 4.4.1 | Maintain a street sweeping and inlet cleaning program | The City of Hays streeting sweeping program will be evaluated and adjusted as necessary, | Log# of miles of street cleaned and #of inlets cleaned |
| 4.4.2 | Employee Training | # of People Trained | Provided annual training to employees as appropriate |

4.6.1 The City of Hays will maintain a street sweeping and inlet cleaning program. The City of Hays currently sweeps streets and cleans inlets. The program will be evaluated annually and updated as necessary. The City of Hays will log the number of street miles swept and the number of inlets cleaned for reporting purposes.

4.6.2 The City of Hays will develop an employee training program to inform employees across all departments of stormwater issues as they relate to day-to-day operations. The overall goal is to train employees on topics relevant to specific departments which may include but not limited to illicit discharge elimination and detection, waste handling, spill prevention control and countermeasures, and construction site BMPs. The number of employees trained and topics will be reported annually for permit compliance.

5.0 Total Maximum Daily Load (TMDL) BMP Requirements

The City of Hays shall implement BMPs to reduce to the maximum extent practicable the discharge of the TMDL regulated pollutants from the MS4 to the impaired watershed stream and/or lake as listed below.

TMDLs are established for waters found on the Clean Water Acts Section 303d list of impaired waters. The purpose of the TMDL is to define the necessary and allowable

pollutant load that may enter those impaired waters so those waters attain a condition that fully supports all its designated uses. The TMDL then allocates portions of the allowable load among the likely point and non-point sources discharging the pollutant into the water or its watershed. Implementation of the TMDL by the NPDES and 319 programs brings about reductions in current loading from those sources through numeric goals or narrative actions to the allowable level allocated to each source.

| Table 5.0 CWA Section 303 D list of impaired of impaired water for the City of Hays, KS | |
|--|---------------------------------|
| Specific Impaired Stream or Lake to Target | TMDL Regulated Pollutant |
| Big Creek | Bacteria/Nutrients/Sediment |
| Big Creek Oxbow | Nutrients |

5.1 TMDL Best Management Practices

The City of Hays will implement the following BMPs to meet the TMDL requirements as established in the permit:

Table 5.1 TMDL Best Management Practices

| BMP Number | Brief Description | Regulated TMDL | Measurable Goal(s) | Measured Result(s) |
|-------------------|--|-----------------------|---|------------------------------------|
| 5.1.1 | Public Education and Outreach in conjunction with 4.1.1 | All TMDL parameters | 1) Development of Plan | Annual execution of plan |
| | | | 2) Implementation of Plan | |
| 5.1.2 | Adopt and maintain a stream buffer ordinance | All TMDL parameters | 1) Develop a ordinance that requires buffers along stream corridors to ensure the protection of waterways | Review ordinance annually |
| | | | 2) Adopt ordinance in 2015 | |
| 5.1.3 | Develop a Turf Conversion Program | Nutrients | Establish Program in 2015 | 1) Number of square feet converted |
| | | | | 2) Evaluate Program annually |
| 5.1.4 | Construct a new Biological Nutrient Reduction (BNR) Wastewater Treatment Plant for treatment of the City of Hays discharges to Chetolah Creek a tributary of Big Creek | Nutrients | BNR Improvements to Wastewater Treatment Plant | 2018 Completion |

5.1.1 The City of Hays and Kansas State University in conjunction with BMP 4.1.1 will develop and implement a public education and outreach program focused on TMDL regulated parameters. The plan will developed in 2015 and executed and evaluated annually.

5.1.2 See 4.5.2

5.1.3 The City of Hays will implement a Turf Conversion Program aimed at reducing water usage which has a secondary effect of reduction in nutrient applications on residential and commercial lawns. The program specifics can be found in Appendix E.

5.1.4 The City of Hays will construct a new BNR Wastewater Treatment Plan to be completed during 2018. The plant will reduce nutrient inputs to Chetolah Creek a tributary to Big Creek.

5.1.5 Other appropriate structural BMP's will be planned, engineered, and installed in accordance with the schedule established in Section 3.2 unless KDHE is notified and agrees to said changes.

6.0 TMDL Monitoring

6.1 Monitoring Requirements

- a. Storm Event Monitoring: The City of Hays will implement a wet weather monitoring program designed to assess the improvements in the water body due to the BMP control measures implemented under the SMP. Sampling and analysis will include, at a minimum, instream monitoring of the main stream(s) entering and leaving the jurisdictional Permit Area for the pollutants identified by the governing TMDLs during or immediately after a specified storm event. For impaired lakes within the Permit Area, monitoring of conditions within those lakes will be conducted after rainfall has ceased and runoff into those lakes has curtailed. Additionally, monitoring of streams flowing within the Permit Area, discharges from the MS4 outfalls, or discharges from areas with BMPs may be done at the City of Hays's discretion to assist in management and evaluation of the BMPs and the SMP.

- b. In addition to the storm event monitoring, the City of Hays may conduct dry weather monitoring, as appropriate, to determine the effectiveness of violations of the six minimum control measures or to confirm baseline water quality data.

6.2 Monitoring Frequency and Periods

- a. Four storm events per year per monitoring site (Storm event shall mean a 24-hr rain or snow melt event greater than or equal to 0.50 inches).
- b. At a minimum, monitoring shall be conducted in the spring (between March 1 and June 30) and summer (between July 1 and October 31) for the parameters as appropriate based upon the impairment.
- c. Additional, monitoring may be conducted outside these timeframes if needed to meet the requirements of the permit.

6.3 Parameters

| Table 6.3 TMDL Sampling Parameters | | | |
|---|----------------------------------|-------------|----------------------------|
| TMDL Impairment | Parameter to be Monitored | MRL* | Sample Type |
| Nutrients | Total Phosphorus as P (mg/L) | 0.05 | Grab or Composite |
| Nutrients | Ortho-Phosphate as P (mg/L)** | 0.05 | Grab or Composite |
| Nutrients | NO3 + NO2 as N (mg/L) | 0.10 | Grab or Composite |
| Nutrients | Total Kjeldahl Nitrogen (mg/L) | 0.10 | Grab or Composite |
| Nutrients | Total Nitrogen (mg/L) | | Calculate*** |
| Nutrients | Dissolved Oxygen (mg/L)**** | 0.10 | Grab or Composite |
| Sediment | Total Suspended Solids (mg/L) | 10.00 | Grab or Composite |
| Sediment | Turbidity (NTU) | | Grab or Composite |
| Sediment (Lake) | Secchi Disk, (Ft) | | Visual |
| Bacteria | E. coli (Col/100 ml or MPN) | 10.00 | Grab |
| <i>Others</i> | <i>As provided by KDHE</i> | | <i>As provided by KDHE</i> |

* Minimum Reportable Limit

** Optional - useful for measuring the impacts of law fertilizers and other sources of dissolved phase phosphorus

*** Total Nitrogen = Total Kjeldahl Nitrogen + NO3 + NO2

**** Removed from sampling requirement by KDHE per letter dated August 19, 2014

In addition, for streams at the time of sampling:

| | |
|--|------------------|
| Rainfall, inches (last 24 hours) | Gauge Reading |
| Stream Flow, CFS and Stream Depth from a standard - Feet | Estimate Reading |
| Stream Level (rising, falling, steady) | Describe |
| Stream Velocity (rapid, normal, still(backwater)) | Describe |

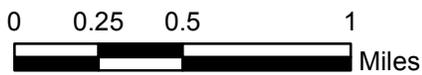
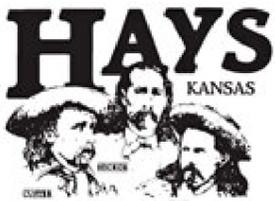
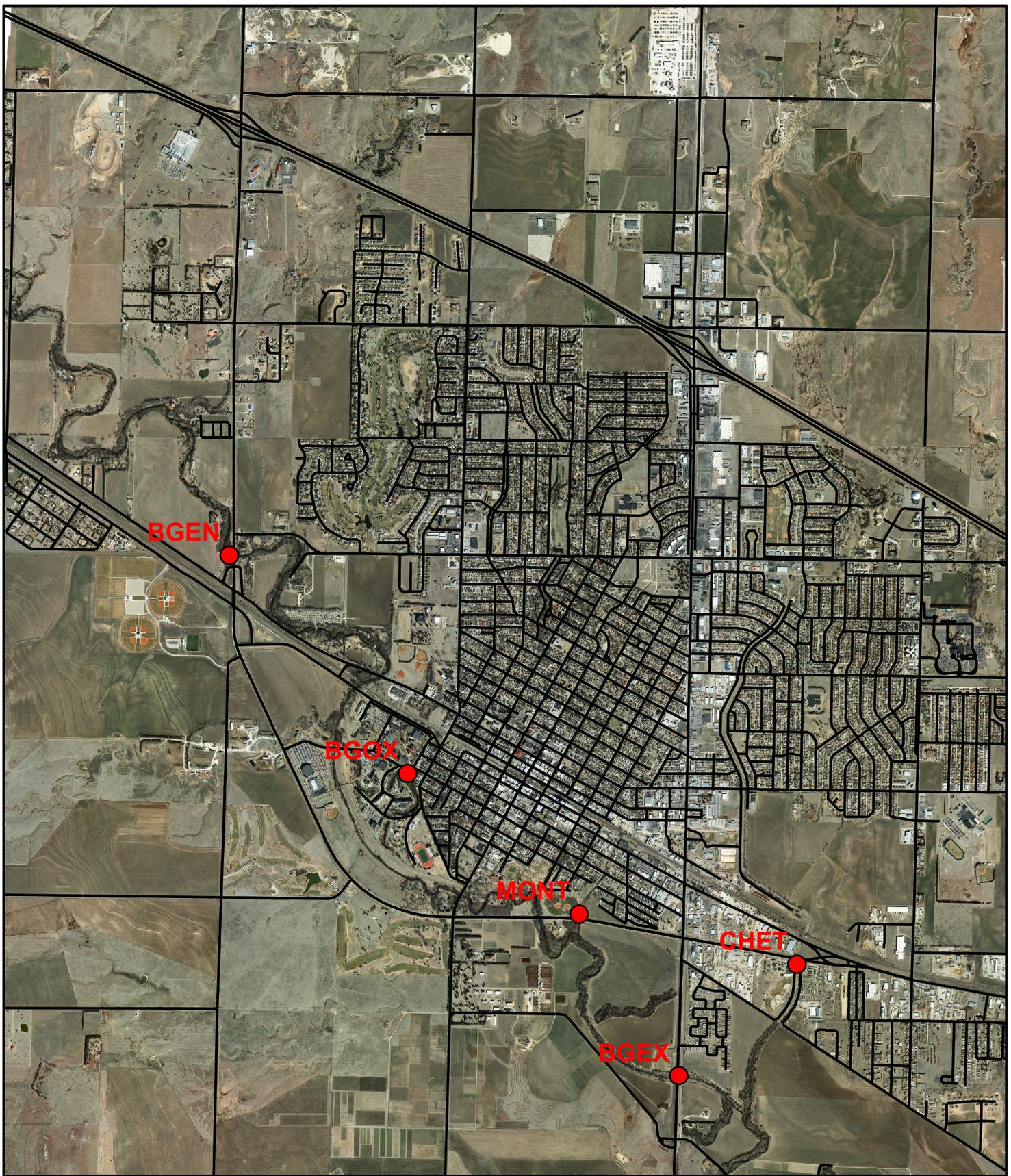
For storm events, grab samples for instream monitoring are to be obtained within 4 hours of rising stages on streams entering and leaving the Permit Area. Monitoring of a storm event for the purpose of complying with the stormwater monitoring and reporting requirements of the permit is not allowed if there is not at least 24 hours between this sampling storm event and the end of the previous rainfall event. If composite sampling is conducted, samples are to be collected over the course of the hydrograph and flow weighted to provide representative composite sample for the storm event. However, multiple composite or grab samples for an extended storm event may be taken to measure the variation of pollutant concentrations with time or stormwater flow.

6.4 Sampling Locations

The City of Hays has identified five (5) sampling locations as identified on Figure 1 to meet permit requirements and assist in the planning of appropriate stormwater BMPs. The sample locations include three (3) watersheds within the City of Hays including the Big Creek watershed, Montgomery Ditch/Lincoln Draw watershed, and the Chetolah Creek watershed. More specific information can be found in Table 6.4.

Table 6.4 Sample Locations

| Location ID | Brief Description and Location | Regulated TMDL | Measurable Goal(s) | Measured Result(s) |
|--------------------|--|------------------------|---------------------------|---------------------------|
| BGEN | Big Creek entering the City of Hays at the US Highway 183 Bypass | All TMDL parameters | 1) 4 Samples Per Year | 1) Times Sampled |
| | | | 2) Reduce to MRL | 2) % Reduced |
| BGOX | The Big Creek Oxbow at the intersection of Park Street and South Campus Drive | Nutrients and Sediment | 1) 4 Samples Per Year | 1) Times Sampled |
| | | | 2) Reduce to MRL | 2)% Reduced |
| MONT | Montgomery Ditch/Lincoln Draw outfall at the US Highway 183 Bypass | All TMDL parameters | 1) 4 Samples Per Year | 1) Times Sampled |
| | | | 2) Reduce to MRL | 2) % Reduced |
| CHET | Chetolah Creek at the intersection of US Highway 40 Bypass and General Custer Road | All TMDL parameters | 1) 4 Samples Per Year | 1) Times Sampled |
| | | | 2) Reduce to MRL | 2) % Reduced |
| BGEX | Big Creek exiting the City of Hays at US Highway 183 | All TMDL parameters | 1) 4 Samples Per Year | 1) Times Sampled |
| | | | 2) Reduce to MRL | 2) % Reduced |



**City of Hays
Public Works
MS4 Permit
Sampling Locations**
Figure 1

Appendix A

NPDES Permit

KANSAS WATER POLLUTION CONTROL
GENERAL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT
AND AUTHORIZATION TO DISCHARGE UNDER
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to the provisions of Kansas Statutes Annotated 65-164 and 65-165, the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251 et seq., the "Act",

Permittee: Hays, City of

Permittee's Address: PO Box 490
Hays, KS 67601

Drainage Basin: Smoky Hill River

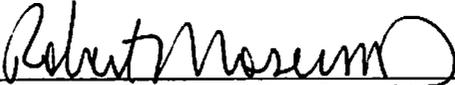
is hereby authorized to discharge stormwater from the system as described herein in accordance with the limitations, conditions and requirements set forth in this general permit.

This general permit is effective February 1, 2014 , supersedes the previously issued general permit M-SH16-SN01 and expires January 31, 2019.

PERMIT AREA AND AUTHORIZED DISCHARGES

This permit covers all areas within the permittee's jurisdiction (the Permit Area). The Permit Area may change based upon areas incorporated into or removed from the permittee's jurisdictional area during the term of this permit.

This permit authorizes all existing or new stormwater point source discharges which discharge to waters of the state from the Municipal Separate Storm Sewer System (MS4) located within the Permit Area. New stormwater discharges are those which are created during the term of this permit.



Secretary, Kansas Department of Health and Environment

January 29, 2014
Date

PART I. STORMWATER MANAGEMENT PROGRAM (SMP) DOCUMENT REQUIREMENTS

- A. Current Stormwater Management Plan - The permittee shall continue to implement, and enforce the current Stormwater Management Program (SMP) until an updated SMP is implemented.
- B. Updated Stormwater Management Plan - By February 28, 2015, the current SMP document shall be updated to include the additional requirements in this permit. The updated SMP shall be designed to:
1. reduce the discharge of pollutants from the MS4 to the Maximum Extent Practicable (MEP),
 2. continue to implement the six minimum control measures,
 3. satisfy the requirements of this permit, the Clean Water Act and Kansas surface water quality statutes and regulations.
- Implementation of Best Management Practices (BMPs) consistent with the provisions of the SMP and this permit constitutes compliance with the standard of reducing pollutants to the Maximum Extent Practicable.
- C. Six Minimum Control Measures - The Permittee shall continue to review, update and implement BMPs with measureable goals for each of the six minimum control measures. The six minimum control measures are:
1. Public Education and Outreach
 2. Public Involvement and Participation
 3. Illicit Discharge Detection and Elimination
 4. Construction Site Stormwater Runoff Control
 5. Post-Construction Stormwater Management in New Development and Redevelopment Projects
 6. Pollution Prevention/Good Housekeeping for Municipal Operations

The detailed requirements for the Six Minimum Control measures are explained at the following url: www.kdheks.gov/muni/download.

- D. Total Maximum Daily Load (TMDL) Regulated Pollutants - The Permittee shall continue to review, update, implement and develop, when necessary, structural and non-structural BMPs which will reduce to the Maximum Extent Practicable the discharge of the TMDL regulated pollutants from the MS4 as listed in PART II. The updated SMP shall provide:

1. Selection of Best Management Practices (BMPs)

The permittee shall provide an updated SMP document which discusses the structural and non-structural BMPs that have been or will be implemented to reduce the discharge of TMDL regulated pollutants from the MS4 significantly contributing to or causing an exceedence of the water quality standard. The SMP shall identify:

- a. which BMPs will be implemented, including non-structural and/or structural measures, as selected from EPA's Menu of BMPS located at (<http://cfpub.epa.gov/npdes/stormwater/menuofbmpps/>) or from a local or regionally appropriate storm drainage criteria manual such as the Kansas City APWA/MARC BMP Manual or such other BMPs as are appropriate.
- b. a description of non-structural practices being implemented, including the six minimum control measures and/or other source control measures,
- c. the location of the BMPs, if structural,
- d. the design factors associated with the BMPs, if structural,
- e. the reported effectiveness of the chosen BMPs based on regionally appropriate data or performance analyses in the International Stormwater BMP Database (<http://www.bmpdatabase.org>) or other appropriate sources,
- f. a schedule for constructing and/or implementing the BMPs,
- g. an inspection/maintenance plan and schedule for each BMP, as appropriate,
- h. a plan and schedule to monitor the effectiveness of the BMPs.

2. Establishing measurable goals to assess the effectiveness of the TMDL BMPs
 - a. Overall TMDL measurable goals shall be based upon instream/inlake sampling of the main stream(s)/lake(s) existing in, or entering and leaving the Permit Area (or Permit Areas for co-operative stormwater control efforts as provided in paragraph 4 below) during or immediately following storm events.
 - b. Individual or sub-basin BMP performance goals may include in-stream or BMP discharge sampling locations based upon individual BMPS, sub-basin BMPs or aggregate BMPs. Alternatively, the permittee may use modeling that has been properly calibrated to determine that BMP performance goals are being met.
 - c. Measurable goals for reducing pollutants contributed by MS4s shall be expressed in quantifiable values to:
 - 1) reduce the concentration of pollutants,
 - 2) reduce the total mass of pollutants,
 - 3) a combination of the above methods and
 - 4) expressed as average and median values (percent reduction of inflow volume, reduction in pollutant concentration or mass loading) or for bacteria as a geometric mean.
 3. Maps illustrating:
 - a. the Permit Area, boundaries of the contributing drainage basins and primary sub-basins, within and outside the Permit Area,
 - b. the locations of the BMPs, if structural,
 - c. the stormwater BMP influent/effluent, lake and stream monitoring locations, as appropriate
 - d. storm sewer collection system which includes the outfalls within the Permit Area where the MS4 drains to TMDL listed impaired streams or lakes.
 4. Alternative Stormwater Offsite Pollution Reduction Program - As appropriate, when waters of the state are affected by TMDL regulated pollutants from both the Permit Area and surrounding non-jurisdictional lands, the permittees may incorporate and implement plans through their SMP for an offsite pollution reduction program to install Best Management Practices (BMP) in alternative locations, including outside the Permit Area, within the watershed shared by urban entities or urban and non-urban entities. Any alternative stormwater offsite pollution reduction program should be developed with watershed interests, such as other communities, Watershed Restoration and Protection Strategy (WRAPS) groups and Conservation Districts lying outside the Permit Area for the joint purpose of reducing pollutant loads generated from urban and non-urban lands within the shared watershed. Candidate offsite locations and practices will be consistent with implementing existing watershed plans that identify specific urban and non-urban (such as agricultural) BMP types and locations to achieve TMDLs reductions. The Alternative Stormwater Offsite Pollution Reduction Program shall be subject to KDHE approval and approved by KDHE prior to incorporation into the permittee's SMP.
- E. The parties responsible for compliance with the SMP document.
- F. Monitoring Requirements - See Part III.
- G. Reporting Requirements - See Part V.

H. Modifications to BMPs and the Stormwater Management Program document

For minor BMP modifications: Within 60 days of a determination by the permittee or by written notification from KDHE, the permittee shall modify the BMP if modifications are needed to achieve the goals of the program.

For major BMP modifications/replacement: Within 60 days of a determination by the permittee or by written notification from KDHE, the permittee shall provide a plan and schedule for the upgrade/replacement of the BMP. The plan and schedule are subject to KDHE approval.

The SMP shall be evaluated annually and modifications, if necessary, submitted with the annual report due to KDHE by February 28 of each year.

PART II. TOTAL MAXIMUM DAILY LOAD (TMDL) BEST MANAGEMENT PRACTICES

The permittee shall implement Best Management Practices (BMPs) to reduce to the Maximum Extent Practicable the discharge of the TMDL regulated pollutants from the MS4 to the impaired watershed stream and/or lake as listed below:

T M D L T A B L E

Total Maximum Daily Loads, TMDLs, are established for waters found on the CWA Section 303d list of impaired waters. The purpose of the TMDL is to define the necessary and allowable pollutant load that may enter those impaired waters so those waters attain a condition that fully supports all its designated uses. The TMDL then allocates portions of that allowable load among the likely point and non-point sources discharging the pollutant into the water or its watershed. Implementation of the TMDL by the NPDES and 319 programs brings about reductions in current loading from those sources through numeric goals or narrative actions to the allowable level allocated to each source.

| TMDL Regulated Pollutant | Specific Impaired Stream or Lake to Target |
|--------------------------|--|
| Bacteria | Big Creek |
| Nutrients | Big Creek, Big Creek Oxbow |
| Sediment | Big Creek |
| | |
| | |

PART III. MONITORING REQUIREMENTS, FREQUENCY AND PARAMETERS

Monitoring Requirements

A. Storm Event Monitoring: The permittee shall implement a wet weather monitoring program designed to assess the improvements in the water body due to the BMP control measures implemented under the SMP. Sampling and analysis will include, at a minimum, instream monitoring of the main stream(s) entering and leaving the jurisdictional Permit Area for the pollutants identified by the governing TMDLs during or immediately after a specified storm event. For impaired lakes within the

Permit Area, monitoring of conditions within those lakes will be conducted after rainfall has ceased and runoff into those lakes has curtailed. Additionally, monitoring of streams flowing within the Permit Area, discharges from MS4 outfalls, or discharges from areas with BMPs may be done at the permittee's discretion to assist in management and evaluation of the BMPs and the SMP.

- B. In addition to the storm event monitoring, the permittee may want to conduct dry weather monitoring, as appropriate, to determine the effectiveness or violations of the six minimum control measures or to confirm baseline water quality data.

Monitoring Frequency and Periods

- A. Four storm events per year per monitoring site (Storm event shall mean a 24-hr rain or snow melt event of greater than or equal to 0.50 inches.),
B. At a minimum, monitoring shall be conducted in the spring (between March 1 and June 30) and summer (between July 1 and October 31) for the parameters as appropriate based upon the impairment.
C. Additional monitoring may be conducted outside these timeframes if needed to meet the requirements of this permit.

Parameters

| <u>TMDL Impairment</u> | <u>Parameter to be Monitored</u> | <u>MRL*</u> | <u>Sample Type</u> |
|------------------------|----------------------------------|-------------|------------------------------|
| Nutrients | Total Phosphorus as P (mg/l) | 0.05 | Grab or Composite |
| Nutrients | Ortho-Phosphorus as P (mg/l)** | 0.05 | Grab or Composite |
| Nutrients | Nitrate+Nitrite as N (mg/l) | 0.10 | Grab or Composite |
| Nutrients | Total Kjeldahl Nitrogen (mg/l) | 0.10 | Grab or Composite |
| Nutrients | Total Nitrogen (mg/l) | | Calculate*** |
| Nutrients | Dissolved Oxygen (mg/l) | 0.10 | Grab or Composite |
| Sediment | Total Suspended Solids (mg/l) | 10 | Grab or Composite |
| Sediment | Turbidity (NTU) | | Grab or Composite |
| Sediment (Lake) | Secchi Disk, (Ft) | | Visual |
| Bacteria | E. coli (Col/100 ml or MPN) | 10 | Grab |
| Others | As provided by KDHE | | As provided by KDHE |

* Minimum Reportable Limit

** Optional - useful for measuring the impacts of lawn fertilizers and other sources of dissolved phase phosphorus.

*** Total Nitrogen = Total Kjeldahl Nitrogen + Nitrate+Nitrite.

In addition, for streams at the time of sampling:

| | |
|--|------------------|
| Rainfall, inches (last 24 hours) | Gauge Reading |
| Stream Flow, CFS and Stream Depth from a standard - Feet | Estimate/Reading |
| Stream Level (rising, falling, steady) | Describe |
| Stream Velocity (rapid, normal, still(backwater)) | Describe |

For storm events, grab samples for instream monitoring are to be obtained within 4 hours of rising stages on streams entering and leaving the Permit Area. Monitoring of a storm event for the purpose of complying with the stormwater monitoring and reporting requirements of this permit is not allowed if there is not at least 24 hours between this sampling storm event and the end of the previous rainfall event. If composite sampling is conducted, samples are to be collected over the course of the hydrograph and flow-weighted to provide a representative composite sample for the storm event. However, multiple composite or grab samples for an extended storm event may be taken to measure the variation of pollutant concentrations with time or stormwater flow.

PART IV. PERMIT COMPLIANCE ACTIVITIES AND SCHEDULES

- A. Year 2014: Complete inventory and maps of the outfalls, streams, and lakes in the targeted areas, select drainage basins and sub-basins as candidates for structural or non-structural BMPs, select and initiate, or continue existing effective plans for source control programs targeted to the TMDL pollutants. By July 1, 2014, implement new source control programs and the initial stormwater monitoring program.
- B. Year 2015: Continue the source control programs and monitoring of storm events at selected sites.
- C. Year 2016: Continue source control programs and monitoring of storm events at selected site. By July 1, 2016, select, design and initiate installation of appropriate structural BMPS.
- D. Year 2017: Continue BMP installation and/or source control programs and stream/lake/BMP outfall monitoring as appropriate. Complete BMP installations by the end of the year.
- E. Year 2018: Continue stream/lake/BMP monitoring and effective source control programs,
- F. By February 28, 2015, a copy of the initial updated/implemented SMP document developed pursuant to this permit's requirements shall be submitted to KDHE for review. Subsequent annual reports shall be submitted to KDHE by February 28 of each year for the preceding calendar year.
- G. By February 28, 2019, provide a final report on effectiveness of source controls and structural BMPs to achieve the measurable goals and summarize water quality data from selected monitoring sites.

PART V. REPORTING

The permittee shall submit a calendar year annual report to KDHE by February 28 of each year with the initial report under this permit due February 28, 2015 for calendar year 2014. The report shall cover the activities during the previous calendar year and must include:

- A. the status of compliance with permit conditions, an assessment of the appropriateness of the Best Management Practices, progress towards achieving the statutory goal of reducing the discharge of pollutants to the maximum extent practicable (MEP), and the measurable goals (with an indication of the progress toward meeting the goals) for each of the six minimum control measures and TMDLs as listed in the Stormwater Management Program document;
- B. results of information collected and analyzed, if any, during the annual reporting period, including monitoring data used to assess the success of the program at reducing the TMDL regulated pollutants;
- C. a summary of the stormwater activities that were scheduled to be undertaken during the previous calendar year and the status of these activities;
- D. a summary of the stormwater activities which are scheduled to be undertaken during the next reporting cycle (including an implementation schedule);
- E. a map showing changes in the permittee's jurisdictional Permit Area;

- F. description of significant changes in any of the BMPs including those in the SMP implementing the six minimum control measures;
- G. updated ordinances or resolutions associated with the SMP or the six minimum control measures shall be provided with the annual reports.
- H. a list of other parties, if any, which will be responsible for implementing any of the program areas of the Stormwater Management Program.

STANDARD CONDITIONS FOR
KANSAS WATER POLLUTION CONTROL AND
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM MS4 GENERAL PERMITS

1. Representative Sampling and Monitoring Report Submittals:

- A. Samples and measurements taken as required herein shall be representative of the quality of the monitored water. Test results shall be recorded for the day the samples were taken. All samples shall normally be taken at the locations designated by the permittee in the Stormwater Management Plan according to the requirements of this permit. In the event samples must be obtained from a location different than that designated in the Stormwater Management Plan the annual report shall indicate the change of location and provide the justification therefore.
- B. Monitoring results shall be recorded and reported on forms acceptable to the Division and provided in the annual report. Signed and certified copies of the annual report prepared in accordance with KAR 28-16-59, and all other reports required herein, shall be sent by U.S. mail to:

Kansas Department of Health & Environment
Bureau of Water-Municipal Programs Section
1000 SW Jackson Street, Suite 420
Topeka, KS 66612-1367

2. Definitions:

- A. A "grab sample" is an individual sample collected in less than 15 minutes. A "composite sample" is a combination of individual samples in which the volume of each individual sample is proportional to the flow, or the sample frequency is proportioned to the flow rate over the sample period, or the sample frequency is proportional to time.
- B. The terms "Director", "Division", and "Department" refer to the Director, Division of Environment, Kansas Department of Health and Environment, respectively.
- C. "Severe property damage" means substantial physical damage to property, damage to the treatment/control facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a diversion.

- 3. Duty to Mitigate: The permittee shall take all reasonable steps to minimize or prevent any damage to the environment or hazard to human health from any discharge in violation of this permit.
- 4. Test Procedures: All analyses required by this permit shall conform to the requirements of 40 CFR Part 136, unless otherwise specified, and shall be conducted in a laboratory accredited by the Department. For each measurement or sample, the permittee shall record the exact place, date, and time of measuring/sampling; the date and time of the analyses, the analytical techniques or methods used, minimum detection or reportable level, and the individual(s) who performed the measuring/sampling and analysis and, the results. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved procedures, the results shall be included in the Monitoring Report form required in 1.B. above. Such increased frequencies shall also be indicated.
- 5. Change in Discharge: All stormwater discharges shall be in compliance with the conditions of the permit. Modification or expansion of the storm sewer system is allowed. All new storm sewer segments and outfalls constructed after the effective date of the permit, which are located within the permit area, are authorized under the permit and must comply with the permit conditions.
- 6. Proper Operations and Maintenance: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the requirements of this permit and Kansas and Federal law.

7. **Incident Reporting:** The permittee shall report any unanticipated significant incidents which would be expected to result in non-compliance with the permit requirements within 24 hours from the time the permittee became aware of the incident. A written submission shall be provided within 5 days of the time the permittee became aware of the incident. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

For an anticipated incident or any planned changes or activities in the permitted control/treatment facility that may result in noncompliance with the permit requirements, the permittee shall submit written notice, if possible, at least ten days before the date of the event.
8. **Removed Substances:** Solids, sludges, debris, or other pollutants removed in the course of control/treatment of stormwater shall be utilized or disposed of in a manner acceptable to the Division.
9. **Right of Entry:** The permittee shall allow authorized representatives of the Division of Environment or the Environmental Protection Agency upon the presentation of credentials, to enter upon the permittee's premises where a stormwater discharge or source is located, or in which are located any records required by this permit, and at reasonable times, to have access to and copy any records required by this permit, to inspect any facilities, monitoring equipment or monitoring method required in this permit, and to sample any stormwater discharges from or influents into the stormwater control/treatment facilities.
10. **Transfer of Ownership:** The permittee shall notify the succeeding owner or controlling person of the existence of this permit by certified letter, a copy of which shall be forwarded to the Division. The succeeding owner shall secure a new permit. This permit is not transferable to any person except after notice and approval by the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.
11. **Records Retention:** Unless otherwise specified, all records and information resulting from the monitoring activities required by this permit, including all records of analyses and calibration and maintenance of instruments and recordings from continuous monitoring instruments, shall be retained for a minimum of 3 years, or longer if requested by the Division.
12. **Availability of Records:** Except for data determined to be confidential under 33 USC Section 1318, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. Treated and raw stormwater data shall not be considered confidential. Knowingly making any false statement on any such report or tampering with equipment to falsify data may result in the imposition of criminal penalties as provided for in 33 USC Section 1319 and KSA 65-170c.
13. **Permit Modifications and Terminations:** As provided by KAR 28-16-62, after notice and opportunity for a hearing, this permit may be modified, suspended or revoked or terminated in whole or in part during its term for cause as provided, but not limited to those set forth in KAR 28-16-62 and KAR 28-16-28b through g. The permittee shall furnish to the Director, within a reasonable amount of time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish upon request, copies of all records required to be kept by this permit. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
14. **Administrative, Civil and Criminal Liability:** The permittee shall comply with all requirements of this permit. Nothing in this permit shall be construed to relieve the permittee from administrative, civil or criminal penalties for noncompliance as provided for in KSA 65-161 et seq., and 33 USC Section 1319.
15. **Oil and Hazardous Substance Liability:** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under 33 USC Section 1321 or KSA 65-164 et seq. A permittee shall promptly notify the Division by telephone upon discovering crude oil or any petroleum derivative in its storm sewer system or stormwater control/treatment facilities.

16. **Property Rights:** The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringements of or violation of federal, state or local laws or regulations.
17. **Severability:** The provisions of this permit are severable. If any provision of this permit or any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected thereby.
18. **Removal from Service:** The permittee shall inform the Division at least three months before any control/treatment unit, or any other part of the control/treatment facility permitted by this permit is to be removed from service and shall make arrangements acceptable to the Division to decommission the facility or part of the facility being removed from service such that the public health and waters of the state are protected.
19. **Duty to Reapply:** A permit holder wishing to continue any activity regulated by this permit after the expiration date, must apply for a new permit at least 180 days prior to expiration of the permit.



Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

August 19, 2014

Hays, City of
Attn: ~~Nicholas Willis~~ *Steven Walters*
Hays, KS 67601
Hays, KS 67601

RE: Kansas Water Pollution Control
Permit No. M-SH16-SN01

Dear Permittee:

The Kansas Department of Health and Environment (KDHE) has modified MS4 permits as explained below. The modification went into effect on August 16, 2014. Please attach this letter to your NPDES permit as the permit modification.

"KS-GP-14-001/002 PUBLIC NOTICE OF CHANGES TO COMBINED KANSAS WATER POLLUTION CONTROL GENERAL STORMWATER PERMITS AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL STORMWATER PERMITS FOR SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

After KDHE review and consideration of comments from certain MS4 permittees, the KDHE Secretary has determined that the following minor changes are made to all MS4 permits with effective dates including and after February 1, 2014. The list of permits affected is shown on KDHE's website: http://www.kdheks.gov/muni/download/MS4_Permits_Issued_2-1-2014.pdf

The changes are:

- 1) The MS4 permits with the federal prefix numbers KSR041 and KSR044 are changed to KSR41 and KSR44 respectively.*
- 2) On page 2 of the issued permits, the URL for the Six Minimum Control Measures is corrected to: http://www.kdheks.gov/muni/download/Fact_Sheet_six_min_controls.pdf*
- 3) On page 5, Parameter to be Monitored Ortho-Phosphorus should have been listed as Ortho-Phosphate, and the requirement to monitor Dissolved Oxygen is being removed as a nutrient impairment parameter"*

If you have any questions concerning these changes, please contact me at 785.296.2856 or sshoresm@kdheks.gov.

Sincerely,

Shelly Shores-Miller
Permits & Compliance

pc: NWD - District
RG- Permit File

RECEIVED
AUG 22 2014
COH PUBLIC WORKS

Appendix B

Notice of Intent

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT GENERAL PERMIT APPLICATION FOR MUNICIPAL STORMWATER DISCHARGES

NOTICE OF INTENT TO BE COVERED BY MS4 GENERAL PERMIT

MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)

STORM WATER DISCHARGES

Please print or type. All items should be completed as accurately as possible and in their entirety. Please refer to the instructions for information about the required items. An original signature of the applicant is required.

Note: Municipality is defined as state, city, town, county, district, association, or other public body (created by or pursuant to State law), including special districts under State law such as a storm sewer district, flood control or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act.

1. Name and address of the permit applicant and local contact:

| | |
|--|--|
| <p>Applicant=s Municipality Name <u>City of Hays, Kansas</u></p> <p>Mailing Address <u>1002 Vine Street</u></p> <p>City, State, and Zip Code <u>Hays, KS 67601</u></p> <p>Type of Municipality: State ___ County ___ City/Town <input checked="" type="checkbox"/> Township ___ Other ___ (type) _____</p> | <p>Local Contact Name <u>John Braun</u></p> <p>Phone Number <u>(785)628-7358</u></p> <p>Title <u>Interim City Engineer</u></p> <p>Email address <u>johnbraun@haysusa.com</u></p> |
|--|--|

For Agency Use Only

Tracking Number _____

Date Received

2. Applicant hereby makes application for a permit to discharge stormwater into:

(See river basin map)

| BASIN | SUBBASIN(s) |
|-------------------------|-----------------------|
| 1. <u>Smoky -Saline</u> | <u>Big (10260007)</u> |
| 2. _____ | _____ |
| 3. _____ | _____ |
| 4. _____ | _____ |

3. Location Map/Boundaries:

Location map must be attached showing the present boundaries of the municipality.
(See Attachment 1)

4. Is the Municipality located wholly or partially within an urbanized area?

No X Yes ___ Unsure ___

5. Will another MS4 provide contract services to perform some portion or all of the BMPs for the six minimum requirements or TMDL supplemental conditions?

No X Yes ___ If Yes, complete and include attached Appendix A with this application.

6. Outline of Measurable Goals and BMPs For each of the stormwater program areas (Public Education and Outreach; Public Participation and Involvement; Illicit Discharge Detection and Elimination; Construction Site Stormwater Runoff Control; Post-Construction Stormwater Management; Pollution Prevention, Good Housekeeping for Municipal Operation; and any applicable TMDL supplemental conditions) an outline and brief description must be included by attachment with this application. The attachment must address the following:

- a. Identify the BMPs that will be implemented and the geographic area within which they will be implemented.
- b. List the proposed measurable goals for each of the BMPs.

(See Attachment 2)

7. Signature of Applicant (legally responsible person)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.≡

| | |
|--|---------------------|
| Signature of Applicant | Date Signed |
| Randy Gustafson | City Manager |
| Name (printed) | Title |
| <u>randyg@haysusa.com</u> | |
| Email address (legally responsible person) | |

40 CFR 122.22 Signatories to permit applications and reports.

(a) Application. All permit applications shall be signed by either a principal executive officer or ranking elected official. All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person.

Appendix C

Plan Modifications

Appendix D

City of Hays Stormwater Ordinances

Chapter 53 - STORMWATER MANAGEMENT

FOOTNOTE(S):

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Editor's note— Sections 1 and 2 of Ord. No. 3832, adopted April 14, 2011, repealed the former ch. 53, arts. I—VI, §§ 53-1—53-10, 53-41—53-47, 53-68—53-71, 53-101, 53-102, 53-133, 53-134, 53-152—53-160, and enacted a new ch. 53 as set out herein. The former ch. 53 pertained to similar subject matter and derived from Code 2000.

ARTICLE I. - IN GENERAL

Sec. 53-1. - Title.

This chapter shall hereafter be known, cited and referred to as the "Stormwater Management Ordinance" of the city.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-2. - 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.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-3. - Applicability.

- (a) The provisions of this chapter shall extend and apply to all land and existing or proposed improvements thereon within the corporate limits of the city and to all substances entering the municipal stormwater drainage system generated on any developed and undeveloped lands within the corporate limits of the city, unless explicitly exempted under the provisions of this chapter.
- (b) Any person proposing to construct buildings or develop land, or make improvements to existing buildings or projects, or grade land within the area described in this section, or take any action the net effect of which will cause a change in existing stormwater runoff, shall make application to the city engineer for approval of a stormwater management plan and issuance of a drainage permit as specified in this chapter. No land shall be graded, developed, or improvements constructed except upon issuance of such drainage permit or as exempted herein.
- (c) Any person required to have construction stormwater permit coverage to discharge stormwater associated with construction activities shall make application to KDHE for issuance of a permit.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-4. - Interpretations.

The provisions of this chapter are intended to supplement existing 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.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-5. - Purpose.

In order to promote the public health, safety, and general welfare of the citizens of the city, the ordinance from which this chapter is derived 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. The maintenance, improvement and protection of the stormwater drainage system of the city necessitates the prevention of the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential and construction sites into the stormwater drainage system. The establishment of regulations in this regard is necessary not only to facilitate compliance with state and federal standards and permit by owners for construction sites within the city, but also to enable the city to comply with all federal and state laws and regulations applicable to the National Pollution Discharge Elimination System (NPDES). More specifically, the provisions of these regulations, as amended from time to time, are intended to reduce property damage and to minimize the hazards of personal injury and loss of life due to flooding, to be accomplished by:

- (1) Establishing the major and minor stormwater management systems;
- (2) Defining and establishing stormwater management controls and practices;
- (3) Establishing guidelines for attenuating or avoiding flooding within the city from the cumulative effects of increased volume and peak discharge of surface water runoff;
- (4) Establishing an appeals board, which shall be the Hays Area Board of Zoning Appeals, to review decisions of the city stormwater superintendent or city engineer.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-6. - Relationship to other law.

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person as waiving any right of the city under any section or provision existing at the time of adoption of the ordinance from which this chapter is derived, or as vacating or annulling any rights obtained by any person by lawful action of the city, except as shall be expressly provided for in these regulations.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-7. - Conflict with public and private provisions.

- (a) *Public Provisions.* These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute 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.
- (b) *Private Provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction; provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, and such private provisions are inconsistent with these regulations or determinations made hereunder.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-8. - 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.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-9. - Disclaimer of liability.

The performance standards and design criteria set forth in this chapter establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained in this chapter shall not constitute a representation, guarantee or warranty of any kind by the city, its agents, or its officers and employees, of the adequacy or safety of any stormwater pollution prevention plan, stormwater management plan, structure, or use of land. Nor shall the approval of a stormwater pollution prevention plan or stormwater management plan and the issuance of a drainage permit imply that land uses permitted will be free from damages caused by stormwater runoff. The degree of protection by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by manmade or natural causes. These regulations therefore shall not create liability on the part of the city, its agents, or any officer or employee with respect to any legislative or administrative decision lawfully made hereunder.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-10. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense; words used in the singular number shall include the plural, and vice-versa; the term "building" includes the term "structure"; the term "person" includes corporation, partnership, and unincorporated association of persons; the term "used for" includes the meaning "designated for" or "intended for;" and the word "shall" or the word "must" is mandatory.

Base flood means the flood has a one-percent chance of being equaled or exceeded in any given year; the 100-year flood.

Best management practices and BMPs means a defined set of activities, prohibitions, pollution prevention and educational practices, maintenance procedures, and other management practices designed to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. Best management practices and BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage and leaks, sludge and water disposal, and drainage from raw materials storage.

Bond means any form of security for the completion or performance of a stormwater management plan or the maintenance of drainage improvements, including surety bond, collateral, property or instrument of credit, or escrow deposit in the amount and form satisfactory to the governing body.

Bridge means a structure generally consisting of abutments and a superstructure used to carry traffic over a channel.

Building means any existing or proposed structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind.

Channel means a watercourse of perceptible extent, either natural or improved, which periodically or continuously contains moving water or which forms a connecting link between two bodies of water.

City means the City of Hays, Kansas.

City BMPs means the best management practices established by the city stormwater superintendent for the city under the authority of this chapter.

City engineer means the person assigned by the director of public works to complete technical tasks associated with stormwater issues.

City stormwater superintendent means the city employee responsible for implementing, administering and enforcing the provisions of this chapter.

Construction activity means any activity, including clearing, grading and excavating, which results in disturbance of any land surface.

Contaminated means containing substances regarded under state or federal law as being pollutants.

Culvert means a closed conduit used for the passage of stormwater under an embankment such as a street, railroad or levee.

Detention means a stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, rooftops, parking areas, holding tanks, in-pipe storage, and in-channel storage.

Discharge means the release, addition or introduction of any substance directly or indirectly into the municipal stormwater drainage system.

Drainage permit means a permit issued by the city subsequent to approval of a final stormwater management plan.

Dry bottom basin means a natural or artificial stormwater storage area which is designed and maintained for temporary containment of stormwater runoff and is not designed to retain water.

Easement means authorization by a property owner for use by another party of all or any portion of his land for a specified purpose.

Enclosed conveyance system means a system for conveying stormwater runoff consisting of inlets, manholes and storm sewers.

EPA means the United States Environmental Protection Agency.

Erosion means the wearing away of land by wind and water.

Five-year storm means a rainstorm having a 20-percent chance of occurrence in any given year.

Floodplain means the land area adjoining a river, stream, watercourse, or lake which is likely to be flooded in the event of a 100-year flood.

Floodway means the channel of a watercourse and the adjacent land area that must be reserved in order to discharge a 100-year flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard means a factor of safety expressed as the difference in elevation between the top of a detention basin dam or channel bank and the design surface water elevation resulting from the storm for which the basin's required storage volume or channel's flow was determined.

Habitable dwelling unit means a dwelling unit intended for and suitable for human habitation.

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

Household hazardous waste means any substance, material or waste identified or listed as a household hazardous waste pursuant to K.A.R. 28-29-23b.

Illicit connections means either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the municipal stormwater drainage system either directly or indirectly; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the municipal stormwater drainage system, either directly or indirectly, and which has not been documented in any approved plans, maps or equivalent records, or which has not otherwise been approved by the city stormwater superintendent.

Illicit discharge means any occurrence prohibited under the provisions of Section 53-135.

Inlet means an opening into a storm sewer system for the entrance of runoff.

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.

Manhole means a structure through which a person may enter to gain access to a storm sewer.

Municipal stormwater drainage system means the system of conveyances (including sidewalks, roads, streets, curbs, gutters, ditches, designated drainage easements, inlets, drains, catch basins, pipes, tunnels, culverts, channels, creeks, rivers, streams, detention basins and ponds owned, operated or otherwise utilized by the city for collecting or conveying stormwater and stormwater drainage, and that is not intended for the collection or conveyance of sewage.

National Pollutant Discharge Elimination System and NPDES means the national system for the issuance of permits under 42 U.S.C. Section 1342, and includes any state or interstate program which has been approved by the administrator, in whole or in part, pursuant to 42 U.S.C. Section 1342.

NPDES stormwater discharge permit means an NPDES stormwater discharge permit issued by the EPA, or issued by a State under authority delegated pursuant to 33 USC § 1342(b), which permit authorizes and regulates discharges into surface waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Nonstormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

100-year storm means a rainstorm having a one-percent chance of occurrence in any given year.

Open conveyance system means a system for conveying stormwater runoff consisting of natural and/or improved open channels with intermittent culverts or bridges crossing streets, railroads or other surfaced areas.

Peak rate of runoff means the maximum rate of runoff for a given return frequency storm.

Permittee means a person, partnership or corporation to whom a permit is granted.

Person means any individual, association, organization, partnership, firm, corporation or other legal entity.

Pollutant means any substance or material which contaminates or adversely alters the physical, chemical or biological properties of water, including changes in the temperature, taste, odor, turbidity or color of water. Pollutant includes, but is not limited to the following: Dredged spoil; spoil waste; incinerator residue; animal waste; trash, refuse and garbage; sewage and sewage sludge; chemical waste; biological materials; radioactive materials; wrecked or discarded objects and equipment; rock, sand and soil; yard waste; hazardous waste and household hazardous waste; oil and petroleum products or waste; paints, varnishes and solvents; automotive fluids; nonhazardous liquid and solid wastes and yard wastes; pesticides, herbicides, and fertilizers; fecal coliform and pathogens; dissolved and particulate metals; and wastes and residues which result from the construction or demolition of any building or structure.

Plat means a legally recorded plan of a parcel of land indicating the location and dimension of such features as streets, alleys, lots, easements and other elements pertinent to a subdivision.

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

Public-owned improvements means improvements such as, but not limited to, concrete channel liner, pipe of various sizes and materials, box culverts and miscellaneous other concrete structures located on public rights-of-way or easements.

Rational method means an empirical formula for calculating peak rates of stormwater runoff resulting from rainfall.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose, add or otherwise introduce any substance, directly or indirectly, or intentionally or unintentionally, into the municipal stormwater drainage system.

Return frequency means the average interval of time which a given event will be equaled or exceeded once.

Runoff means water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

Runoff total means the total volume of stormwater runoff from a tributary area for a definite period of time such as a day, month or a year, or for the duration of a particular storm.

Sediment means soil and rock material transported, carried or deposited by water.

Storm sewer means a closed conduit for transporting stormwater runoff that has been collected by inlets.

Stormwater means any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Structure means any object constructed above or below ground.

Ten-year storm means a rainstorm having a ten-percent chance of occurrence in any given year.

Tributary area means all of the area contributing runoff to a given point of consideration, both public and private.

Uncontaminated means not containing pollutants.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means any stream, creek, brook, branch, depression, reservoir, lake, pond, or drainageway in or into which stormwater runoff flows.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-11. - Designation of city stormwater superintendent.

The stormwater superintendent of the city is hereby authorized and directed to implement, administer and enforce provisions of this chapter, and to perform all functions and duties, and to exercise such authority and discretion as prescribed under this chapter. The stormwater superintendent, with the approval of the city manager, may delegate any of the powers, duties or functions prescribed under this chapter.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-12. - Severability.

If for any reason any section, subsection, sentence, clause or phrase of this chapter or the application thereof to any person or circumstance is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-13—53-40. - Reserved.

ARTICLE II. - STORMWATER RUNOFF MANAGEMENT SYSTEM

Sec. 53-41. - General.

- (a) This article establishes the stormwater runoff management system which shall be composed of a major system, a minor system, management controls, and management practices.
- (b) These regulations apply to the minor system.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-42. - Major system.

- (a) The major system shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program maps developed for the city by the Federal Emergency Management Agency (FEMA).
- (b) Floodplain management regulations adopted by the city shall govern development and improvements within the regulatory floodplain.
- (c) For areas located in FEMA zone A outside the detailed study area, the developer shall prepare studies and calculations establishing the floodplain elevation and width. These calculations shall be submitted to the city engineer for review.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-43. - Minor system.

The minor system shall consist of storm drainage facilities including, but not necessarily limited to, roadway curb and gutter, open channels, gullies, streams, creeks, swales, and enclosed and open conveyance systems which transport storm runoff to the major system.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-44. - Management—Controls.

- (a) Management controls are regulations applicable to the minor system under the provisions of this chapter. Such controls shall govern any activity which will adversely affect hydraulic function of any stormwater drainage facilities, public or private, including, but not limited to, detention facilities, open channels, drainage swales, enclosed or open stormwater conveyance systems.
- (b) Applicability of the use of stormwater management controls for proposed projects or improvements thereon shall apply in the following situations:
 - (1) Additions to, improvements or repair of existing retail, commercial, institutional or industrial structures;
 - (2) New construction of any residential, retail, commercial, institutional or industrial development.
- (c) These requirements do not apply to:
 - (1) Situations in which downstream flooding is entirely confined within the limits of the 100-year floodplain as defined by the Federal Insurance Study (FIS) current at the time of the development and no existing or proposed structures or property will be adversely impacted;
 - (2) Additions to, improvements and repairs of existing single-family or duplex dwellings;
 - (3) Remodeling, repair, replacement, and improvements to any existing structure or facility and appurtenances that increase the impervious area by less than 10,000 square feet;
 - (4) Improvements to any site having a gross land area of one-fourth-acre or less, regardless of land use;
 - (5) Construction of any one new single-family dwelling unit.
- (d) The building code administrator shall refer all development plans and all building permit applications that may require a stormwater management plan and subsequent drainage permit to the city stormwater superintendent for determination of applicability of this chapter thereto.
- (e) The drainage permit fee is as set out in Section 53-134

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-45. - Same—Practices.

The following practices may be utilized upon approval of the city stormwater superintendent. Use of these methods shall be fully in accordance with the design criteria and performance standards as set forth for the following:

- (1) *Storage*. Runoff may be stored in temporary or permanent detention basins, through rooftop or parking lot ponding, percolation storage, or by other approved means.
- (2) *Enclosed Systems with Underground Structures*. Enclosed systems consisting of underground pipes, culverts and similar functional underground structures shall be used to convey stormwater at all locations:
 - a. Where the design peak discharge of the five-year return period storm is equal to or less than the capacity of a 72-inch diameter round pipe with a Manning's "n" of 0.013 using the existing slope;
 - b. Within the right-of-way of improved streets regardless of system design capacity;
 - c. Within 50 feet of any existing or proposed habitable building regardless of system design capacity;
 - d. For developed areas where the design peak discharge of a ten-year return period storm equals or exceeds eight CFS and the collected drainage is generated from more than one lot;
 - e. Open channels will be used where designated by the city.
- (3) *Streets, Curbs and Gutters*. Streets, curbs and gutters shall be an integral part of the stormwater management system. To the maximum extent possible, drainage systems, street layout and grades, lot patterns and location of the curbs, inlets, and site drainage and overflow swales shall be concurrently designed in accordance with the design criteria and performance standards set forth in these regulations.
- (4) *Enclosed Conveyance Systems*. Enclosed conveyance systems consisting of inlets, conduits and manholes may be used to convey stormwater runoff except as designated as open channel by the city.
- (5) *Practices Not Exclusive*. The stormwater runoff management practices enumerated in this article shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized where approved by the city engineer if the minimum standards and intent as described in this chapter are maintained.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-46. - Public responsibilities under the stormwater management system.

- (a) *Administration*. The administration of these regulations shall be the responsibility of the city stormwater superintendent, or his designee, who shall review and approve stormwater management plans as provided in this chapter.
- (b) *Operation and Maintenance of Public-Owned Facilities*. The city shall be responsible for all maintenance of the public-owned drainage system, either improved or unimproved, located on a right-of-way and city-owned property. Maintenance of the public-owned drainage system located on private property and/or in utility or drainage easements shall be limited to the public-owned improvements such as concrete structures, pipelines or concrete channel liner, and to the repair of any erosion-caused drainage system failure within this improved portion only of the drainage system. The city will maintain the free flow of all storm drainage within the corporate limits of the city. However, it shall be the responsibility of the owner, occupant or agent in charge of private property, upon which the public storm drainage system exists, to maintain all vegetation including mowing the grass and weeds, trimming and/or removal of dead trees and shrubs and providing of such other general maintenance as is required except as described in this subsection.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-47. - Private responsibilities under the stormwater management system.

- (a) Each developer/permittee and/or owner of land within the city has the responsibility to provide all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's/permittee's and/or property owner's property both during and after construction of such facilities.
- (b) Each developer/permittee and/or owner of land within the city has the responsibility and duty before and after construction to properly operate and maintain any on-site stormwater detention facility which has not been accepted for maintenance by the city. Such responsibility is to be transmitted to subsequent owners through appropriate covenants. This maintenance shall include debris control and cleaning, cutting of vegetation, erosion repair, repair of rodent damage to dams and levees, removal of silt, and maintenance of structural facilities.
- (c) Owners of detention basins and associated facilities upon completion of construction shall furnish certification by a professional engineer licensed in the state to the city stormwater superintendent that the detention basin has full storage capacity and that all associated facilities including inlet and outlet structures are fully functional.
- (d) Owners of all property containing either public or private drainage systems shall provide access to the system for city maintenance crews. No structures shall be constructed to obstruct access. The city stormwater superintendent must approve proposed changes to any drainage system prior to construction.
- (e) Owners of detention basins and associated facilities with storage capacity in excess of 100,000 cubic feet total on-site storage shall furnish certification by a professional engineer licensed in the state to the city stormwater superintendent once every four years that the detention basin has full storage capacity and that all associated facilities including all inlet and outlet structures are fully functional, excluding regional retention/detention facilities currently in place as of January 1, 2000.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-48—53-67. - Reserved.

ARTICLE III. - PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER MANAGEMENT PLANS; SUBMISSION OF STORMWATER POLLUTION PREVENTION PLANS

Sec. 53-68. - General.

The stormwater management plan and/or all construction drawings and specifications shall be prepared, signed and sealed by a professional engineer licensed in the state. All plans shall be submitted to and approved by the city stormwater superintendent prior to issuance of a building or construction permit. No building or construction permits shall be issued prior to the approval of the stormwater management plan and issuance of a drainage permit by the city stormwater superintendent.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-69. - Submission—Preliminary stormwater management plan.

A preliminary stormwater management plan shall accompany preliminary applications for any proposed project. This preliminary plan shall contain, but not be limited to, the following information and data:

- (1) A site plan of suitable scale and contour interval indicating topographical information of the land to be developed and adjoining land tributary to the point of consideration whose topography may affect the proposed layout or drainage patterns for the project. A general plan of final

contours of the project site shall also be indicated. All existing streams, waterways, channels and the extent of the established floodplains shall be indicated;

- (2) The location and calculated peak discharge rates to all adjacent storm drainage facilities;
- (3) The type and drainage characteristics of soils contained in the project area;
- (4) A description of the concepts to be considered within the project to handle anticipated stormwater runoff including the methods to be utilized to detain or control increased stormwater runoff generated by the proposed project;
- (5) A preliminary plan of the proposed storm drainage facilities including preliminary calculations of stormwater runoff and detention volume, if required, to be handled by such facilities, including information regarding the effect the proposed project will have on existing downstream drainage facilities;
- (6) A description of the possible effects that the proposed project could have on areas adjoining and upstream of the project, including adjacent property;
- (7) Following the receipt of the preliminary stormwater management plan, a general review meeting will be conducted and shall include the city stormwater superintendent or his staff, representatives of the developer/permittee and the developer's/permittee's engineer. The purpose of this review shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed project on existing or future adjacent projects.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-70. - Same—Final stormwater management plan.

Following the review of the preliminary stormwater management plan, and after general approval of the preliminary plan by the city stormwater superintendent, a final stormwater management plan shall be prepared. The submittal of the final plan shall coincide with the application for final approval of the project and shall constitute a refinement of the concepts approved in the preliminary plan. If a project is to be phased, the total area of the conceptual project is to be considered in all calculations, and facilities shall be designed for each phase which would be compatible with those of the total project plan. The final stormwater management plan for any project shall include, but not be limited to, the following additional detailed information, unless specifically excluded during the preliminary concept review meeting:

- (1) A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of floodplains and calculated high water elevations, the shoreline of lakes, ponds, swamps and detention basins including their inflow and outflow structures, if any;
- (2) The location, size, material (i.e., reinforced concrete pipe), slope, and invert elevation of all existing sanitary or storm sewers, and the location of any existing stormwater wastewater pumping or treatment facilities, which fall within the project limits plus 200 feet outside the project limits;
- (3) Detailed determination of runoff anticipated for the entire project site following project completion indicating design volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine such runoff volumes and rates and review of the criteria which have been used by the project engineer throughout his calculations;
- (4) A refined layout of the proposed stormwater management system including the location and size of all drainage structures, storm sewers, channels and channel sections, detention basins, and analyses regarding the effect such improvements will have upon the existing downstream drainage facilities;
- (5) The slope, type, size and flow calculations for all existing and proposed storm sewers and other waterways;

- (6) For all detention basins, if any, a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;
- (7) For all detention basins, if any, design hydrographs of inflow and outflow from the site under proposed project conditions;
- (8) A stormwater pollution prevention plan for the entire project site as required by Section 53-74
- (9) A profile and one or more cross sections of all existing and proposed channels or other open drainage facilities, indicating existing conditions and the proposed changes thereto, together with the high water elevations expected from stormwater runoff under the controlled conditions called for by these regulations and the relationship of structures, streets and other utilities to such channels for a distance as far downstream as the runoff will have a noticeable effect.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-71. - Review and approval of final stormwater management plan.

The final stormwater management plan shall be reviewed by the city engineer. If it is determined according to present engineering practice that the proposed project will provide control of stormwater runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to the public health, safety and general welfare, the city engineer shall approve the plan or conditionally approve the plan, setting forth the conditions thereof. A drainage permit for the project shall be granted; provided, the requirements for the drainage permit in Section 53-133 have been met. If it is determined that the proposed project will not control stormwater runoff in accordance with these regulations, the city engineer shall disapprove the final stormwater management plan. If disapproved, the application and data shall be returned to the applicant for review, revision and resubmittal. Time frames for filing, review and approval of stormwater management plans shall coincide with applicable time periods in Chapters 59 and 71.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-72. - Establishment of construction activities best management practices (BMPs) and requirements for stormwater pollution prevention plans.

All construction sites in the city required to have construction stormwater permit coverage to discharge stormwater associated with construction activities must obtain permit coverage from KDHE prior to issuance of any building permits by the city. No building permits shall be issued by the city unless proof of KDHE permit coverage is shown to the city stormwater superintendent.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-73. - Requirement of stormwater pollution prevention plans for subdivision developments.

- (a) Where construction of any residential, commercial or industrial subdivision development will involve one or more construction activities during the life of the development project, the owner of a site of any construction activity, and any developer on the owner's behalf, shall submit a stormwater pollution prevention plan that meets KDHE requirements and complies with BMPs, as part of any platting of such subdivision; or, if the subdivision is already platted and is not subject to an existing stormwater pollution prevention plan, then such shall be submitted as part of the site plans in relation to the initial building permit application within such development. The stormwater pollution prevention plan shall provide for all phases of development within the subdivision, including general grading and the construction of individual buildings and other improvements within the development, but shall not be required to include the construction of public improvements which are to be constructed by the city therein, such as internal water and sewer mains and public streets and sidewalks.
- (b) The subdivision owner shall provide a copy of the stormwater pollution prevention plan to all contractors and utility companies prior to their working within the subdivision.

- (c) The subdivision owner shall be responsible for implementation of the stormwater pollution prevention plan as to all construction activity within the development, excluding construction under the control of a subsequent owner of an individual lot or parcel or as to construction managed by utility companies.
- (d) Any subsequent owner of an individual lot or parcel with such a subdivision shall be responsible for continued implementation of the stormwater pollution prevention plan for all construction activity within or related to that owner's lot or parcel, excluding construction managed by utility companies.
- (e) The subdivision owner shall be responsible for maintenance of common controls such as sedimentation basins until all construction activity draining to the common control is 85 percent completed and the surfaces are stabilized with permanent vegetation or non-eroding surfaces.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-74. - Stormwater pollution prevention plan submission; amendments.

- (a) Construction sites disturbing one or more acres of land within the city are required to submit a stormwater pollution prevention plan that meets KDHE requirements and complies with BMPs, as part of the standard building permit process. The stormwater pollution prevention plan shall be reviewed as to form as part of the city's established platting and building permitting process. Issuance of a building permit by the city shall not be construed to indicate an opinion about the effectiveness of the proposed stormwater pollution prevention plan.
- (b) Projects disturbing less than one acre of land but part of a larger common plan of development (as described in the most recent version of KDHE's general construction stormwater permit) are not required to submit construction stormwater pollution prevention plans. Operators of these construction sites must comply with all KDHE permitting requirements and inspection and enforcement of any violations by the city.
- (c) Changes to the stormwater pollution prevention plan are authorized so long as compliance with KDHE's general construction stormwater permit is maintained. If proposed changes impact the post-construction conditions of the site, the changes must be submitted to the city for review.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-75. - Requirements applicable to utility companies.

- (a) Utility companies operating within the city are required to use BMPs such as downslope controls, spill prevention and cleanup best practices and immediate site stabilization measures.
- (b) Utility companies are prohibited from making illicit discharges to the municipal storm sewer system.
- (c) Utility companies performing large projects not routine in nature disturbing more than one acre of land within the city are required to obtain KDHE general construction stormwater permit coverage and submit a stormwater pollution prevention plan that meets KDHE requirements and complies with BMPs, to the city prior to beginning work.
- (d) Utility companies operating within a construction site permitted to a third party must follow best management practices within the permitted construction site.
- (e) Utility companies are subject to all enforcement measures provided for in this and other ordinances.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-76. - Requirements generally applicable.

- (a) No contractor, subcontractor or utility company shall enter the site subject to a stormwater pollution prevention plan for the purpose of engaging in any work thereof prior to obtaining a copy of that stormwater pollution prevention plan for the site or project, and without taking such steps as necessary so that its activities on that site are in compliance with the stormwater pollution prevention plan.

- (b) Each contractor, subcontractor and utility company is responsible for taking all reasonable steps necessary to avoid damaging any BMP devices once in place. Any person whose actions or neglect have resulted in the alteration, damage or impairment of any BMP devices in place pursuant to a stormwater pollution prevention plan shall immediately repair or remedy the same, and shall be responsible for all costs necessary for such repair and remediation.
- (c) It shall be unlawful for any person responsible for performance of and/or adherence to a stormwater pollution prevention plan to fail to comply with the requirements of that plan. The requirements under a stormwater pollution prevention plan shall remain applicable until such time as the construction activities under the plan have been satisfactorily completed and the site surface properly stabilized or covered as determined by the city stormwater superintendent.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-77. - Requirements for industrial stormwater and other permitted discharges.

Any person who is required to have a construction or industrial activity NPDES stormwater discharge permit shall comply with all provisions of such permit, and further shall be required to do the following:

- (1) Dischargers of stormwater associated with industrial activity and other holders of national pollutant discharge elimination system permits must provide proof of compliance with the provisions of the NPDES stormwater discharge permit when requested by and in a form acceptable to the city stormwater superintendent.
- (2) The fact that a person has conducted all activities in conformance with a stormwater pollution prevention plan or in conformance with approved or established BMPs shall not constitute a defense to a charge of violation of the illicit discharge prohibitions of this chapter.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-78—53-100. - Reserved.

ARTICLE IV. - STORMWATER DESIGN CRITERIA AND PERFORMANCE STANDARDS

Sec. 53-101. - Design criteria.

Unless otherwise approved, the following criteria shall govern the design of improvements with respect to managing stormwater runoff:

- (1) *Stormwater System Design Criteria.* Unless otherwise provided by the city engineer, the latest approved edition of Design Criteria, Storm Drainage Systems and Facilities, as approved by the city, which is by reference made a part of this article as though expressly rewritten and incorporated in this article, shall govern the design of stormwater systems within the city.
- (2) *Project Design.* Streets, blocks, depth of lots, parks, and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of stormwater into the ground, and to preserve and utilize existing and planned streams, channels and detention basins, and include, whenever possible, streams and channels within parks and other public grounds.
- (3) *Methods of Controlling Downstream Flooding.* The developer's/permittee's engineering consultant shall determine whether the proposed plan will cause or increase downstream local flooding conditions. This determination shall be made on the basis of existing downstream development and drainage system capabilities, and an analysis of stormwater runoff both prior to and after the proposed project is completed. Should the developer's/permittee's engineering consultant determine that the proposed project will cause or increase downstream local flooding conditions during the design storm, provisions to eliminate such flooding conditions shall be included in the design of storm drainage improvements. Such provisions may include

downstream conveyance system improvements and/or on-site detention facilities to control discharge to the downstream storm drainage system (refer to Storm Drainage Systems Facilities Design Criteria, Section 6.4).

- (4) *Downstream Improvements.* Improvements to eliminate downstream flooding conditions may include, but not be limited to, the construction of dams, dikes, levees and flood walls, culvert enlargements, and channel clearing and modification projects, and shall be designed and constructed in compliance with all applicable local, state and federal regulations.
- (5) *Detention Basins.*
 - a. Detention of stormwater runoff may be required on projects in order to eliminate downstream flooding conditions. Storage facilities will not be required in situations where the installation of such a facility would adversely affect the environment (as determined by the city engineer) or where the site discharges directly into the major system.
 - b. In addition to complete construction drawings, design data as required by Subsection 6.7, Required Submittals, Design Criteria, Storm Drainage Systems and Facilities of the governing standard, shall be submitted to the city stormwater superintendent for all projects including detention facilities.
- (6) *Other Detention Methods.* The following detention methods may also be utilized to provide temporary detention storage:
 - a. *Dry-Bottom Basins.* Where possible, dry-bottom basins shall be designed to serve secondary purposes for recreation, open space or other types of use which will not be adversely affected by occasional or intermittent flooding.
 - b. *Rooftop Storage.* Detention storage may be met in total or in part by detention on roofs. Details of such designs, which shall be included in the drainage design submittals, shall include the depth and volume of storage, details of outlet devices and down drains, elevations of overflow scuppers, design loadings for the roof structure and emergency overflow provisions. Calculations shall be provided to indicate that the structure has been designed for the additional loadings as a result of stormwater detention. Connection of roof drains to sanitary sewers is prohibited.
 - c. *Parking Lot Storage.*
 1. Paved parking lots may be designed to provide temporary detention storage of stormwater on all or a portion of their surfaces. Outlets will be designed so as to slowly empty the stored waters in such a time as to create the least amount of inconvenience to the public. The design of parking lot storage will restrict ponding to areas which will cause the least amount of inconvenience to the users of the parking areas. In no circumstance will stormwater ponding in public parking areas exceed seven inches in depth.
 2. All parking lot detention areas shall have a minimum of two signs posted identifying the detention pond area. The signs shall have a minimum area of 1.5 square feet and contain the following message:

WARNING

This area is a stormwater detention pond and is subject to periodic flooding to a depth of seven inches.
 - d. *Other Storage.* All or a portion of the detention storage may also be provided in other underground or surface detention areas or facilities.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-102. - Performance standards.

- (a) *Channel Location.* Generally acceptable locations of stormwater runoff channels in the design of a subdivision may include, but not be limited to, the following:
 - (1) Centered on lot lines or entirely within the rear yards of a single row of lots or parcels;
 - (2) A drainage easement to facilitate maintenance and design flow shall be provided and indicated on the plat. No private structures shall be allowed to be constructed within or across stormwater channels.
- (b) *Storm Sewer Outfall.* The storm sewer outfall shall be designed so as to provide adequate protection against downstream erosion and scouring.
- (c) *Lot Lines.* Whenever the plans call for the passage and/or storage of floodwater, surface runoff or stormwater along lot lines, the grading of all such lots shall be prescribed and established for the passage and/or storage of waters. No private structure may be erected in these areas which will obstruct the flow of stormwater. Further, installation of fences, and the planting of shrubbery or trees within the area will not be permitted. Such items existing at the time of adoption of the ordinance from which this chapter is derived will be grandfathered to remain only until such point in time as the city engineer determines that such items obstruct the flow of stormwater, whereupon the city stormwater superintendent shall notify the property owner by certified mail to perform remedial work as described therein. Changes in the prescribed grades and contours of the floodwater or stormwater runoff channels will not be permitted unless approved in writing by the city engineer. Where more than two lots or parcels are involved in a common stormwater runoff problem, the city will serve as a facilitator to assist the property owners involved to solve existing stormwater problems by making meeting rooms and city representatives available for consultation in the formation of a benefit district. Otherwise, these kinds of problems are treated as civil matters between property owners.
- (d) *Interception of Runoff from Private Commercial and Industrial Sites.* Stormwater runoff from private commercial and industrial sites shall be intercepted by inlets prior to being discharged into the public stormwater system, if a public stormwater system is within 200 feet of the proposed site. The intent of this requirement is to prevent runoff from private commercial and industrial sites from being discharged directly into public streets.
- (e) *Easements.* Permanent easements for the detention and conveyance of stormwater, including easements of access to structures and facilities, shall be dedicated to the city. Easements shall be as provided in subsections 4.1, 5.1 and 6.2, Easements, Design Criteria, Storm Drainage Systems and Facilities.
- (f) *Maintenance.* Provisions acceptable to the city for perpetual maintenance of detention facilities, outlet works, and appurtenances shall be made as provided in this chapter.
- (g) *Drainage Permits.* A drainage permit for projects including detention facilities shall be granted by the city stormwater superintendent only after the final stormwater management plan has been approved and all easements have been dedicated, accepted and recorded, and all required maintenance assurances and required bonds have been executed.
- (h) *Plans for Grading, Sedimentation and Erosion Control.*
 - (1) *Generally.*
 - a. Prior to the approval and recording of the final subdivision or land development plan, a plan depicting proposed site grading within the project shall be submitted to the city stormwater superintendent for review and approval.
 - b. Stripping of vegetation or earthmoving shall not be permitted nor will building or construction permits be issued prior to approval of this plan by the city stormwater superintendent.
 - c. For major subdivision projects consisting of more than one acre, the grading plan shall be accompanied by a detailed sedimentation and erosion control plan.

- (2) *Subdivision Grading Plans.* The grading plan shall be prepared by a professional engineer licensed in the state. The contents of the plan shall include, but not be limited to, the following information:
- a. Contours of existing grades at intervals not more than two feet. Intervals less than two feet may be required if the slope is less than one percent for 40 percent of the total area or dependent on the character of the topography;
 - b. Property lines identified as to existing or proposed lot and block number;
 - c. Elevation and location of the nearest bench mark (USGS datum);
 - d. Contours of finish grades drawn at sufficient intervals of not more than two feet to depict major subdivision drainage patterns. In addition, finished grade spot elevations shall be shown for all corners of each lot. Such corner elevations shall be general in nature and, upon approval of the city stormwater administrator, may be revised at the time of plot plan submittal;
 - e. One hundred-year floodplain limits and elevations;
 - f. Easement and right-of-way information (including drainage easements) required for off-site drainage ways;
 - g. Existing and proposed utility information.
- (3) *Grading Plans for Nonresidential Individual Lots.* Applications for individual building permits shall be accompanied by a specific grading plan for that lot. Such grading plan shall be incorporated into plot plan and shall contain as a minimum, the following information:
- a. Property lines identified as to existing or proposed and lot and block numbers;
 - b. The proposed location of structure;
 - c. The proposed type of structure (i.e., bi-level, split-level, etc.);
 - d. Elevations of the top of the foundation and the proposed grade at principal structure corners and at lot corners;
 - e. An approximate location of drainage swales indicated by directional arrows depicting flow patterns. Spot elevations may be utilized in lieu of arrows. Additional information may be required by the city stormwater superintendent to assure protection of adjacent property.
- (4) *Minimum Grading Standards.* The following minimum criteria for site grading shall apply to all applications for the site grading permit:
- a. *Protective Slopes Around Structures.*
 1. A downward slope shall be provided from structure foundations to drainage swales.
 2. A minimum gradient of 0.5 percent for concrete paved surfaces; one percent for other impervious surfaces, except in defined swales the minimum gradient shall be 0.5 percent, and in concrete gutters the minimum gradient shall be 0.3 percent.
 3. A maximum gradient shall be 4:1, horizontal to vertical, for a minimum of four feet from foundation walls.
 - b. *Lawn Areas.* Minimum gradient shall be one percent. A gradient of two percent is recommended where practical.
 - c. *Driveways.* Driveways sloping toward buildings shall be graded in such a manner as to provide an intercepting swale draining away from the structure prior to its connection with the building. In specific cases, the use of gradients less than or greater than those specified may be necessary. Variance from these requirements may be allowed where justified and approved by the city engineer.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-103—53-132. - Reserved.

ARTICLE V. - DRAINAGE PERMITS AND PROHIBITED ACTS

Sec. 53-133. - Drainage permits.

Upon approval of the final stormwater management plan and acceptance of the applicant's performance, security and maintenance bond, permit fee and maintenance assurance, if any, the city stormwater superintendent shall issue a drainage permit. The permit shall set forth the terms and conditions of the approved stormwater management plan.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-134. - Fees.

Drainage permit applicants shall submit a permit fee of \$25.00 to the city with each application.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-135. - Prohibitions.

- (a) No person shall discharge or release, or cause or permit to be discharged or released, into the municipal stormwater drainage system, any substance which is not composed entirely of uncontaminated stormwater, except as allowed in Section 53-137
- (b) Notwithstanding the provisions of Section 53-137, any discharge or release shall be prohibited by this section if the discharge or release in question has been determined by the city stormwater superintendent to be a source of pollutants or contamination to the municipal stormwater drainage system and has given notice thereof.
- (c) The construction, use, maintenance or continued existence of illicit connections as defined in Section 53-138 is prohibited. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under the law or practices applicable or prevailing at the time of the connection.
- (d) No person shall connect a line conveying sewage, domestic sewage or industrial waste to the municipal stormwater drainage system, or allow any such existing connection to continue.
- (e) No person shall intentionally destroy, damage or otherwise interfere with the effectiveness of any BMP implemented pursuant to this chapter.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-136. - Specific illicit discharges prohibited.

Except as permitted in Section 53-137, illicit discharges prohibited under the provisions of Section 53-135 include, but are not limited to, the following:

- (1) Motor oil, antifreeze or any other petroleum product or waste;
- (2) Industrial waste;
- (3) Hazardous waste, including household hazardous waste;
- (4) Domestic sewage, septic tank waste, grease trap waste, or grit trap waste;
- (5) Garbage, rubbish or yard waste (including grass trimmings, leaves, weeds and all other vegetation or portions, trimmings or wastes thereof or therefrom);

- (6) Wastewater which contains soap, detergent, degreaser, solvent, surfactant, emulsifier, dispersant or other cleaning substances;
- (7) Wastewater (i) from any commercial facility for the washing of vehicles, such as carwash facilities, or (ii) from any similar facility associated with any new or used vehicle distributorship, rental agency, body shop, repair shop or maintenance facility, or (iii) from any similar facility maintained by any business or institution for the washing, cleaning or maintenance of its own business or commercial vehicles or heavy equipment;
- (8) Wastewater from the cleaning of the portion of vehicles or equipment which contained ready-mixed concrete, mortar, ceramic, asphalt-based material or hydromulch material;
- (9) Wastewater from the washdown or other cleaning of any pavement where any spill, leak or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred;
- (10) Effluent from a cooling tower, condenser, compressor, emissions scrubber or emission filter, or the blowdown from a boiler;
- (11) Runoff, washdown water or waste from any animal pen, kennel, fowl or livestock containment area;
- (12) Swimming pool water which has not been de-chlorinated in accordance with the specifications of the city stormwater superintendent;
- (13) Swimming pool or fountain filter backwash;
- (14) Any substance or material which will damage, block or clog the municipal stormwater drainage system;
- (15) Any release from a petroleum storage tank, or any leachate or runoff from soil contaminated by a petroleum storage tank leakage;
- (16) Pesticides or fertilizers, including runoff from the improper storage, discarding, transportation or application of pesticides or fertilizers;
- (17) Discharge of street sweepings;
- (18) Wastewater from concrete cutting, pavement cutting, pipe cutting and any similar operation where water is used to cool cutting equipment;
- (19) Wastewater from oil and natural gas exploration and production activities;
- (20) Discharge from construction activities oil and natural gas exploration sites without downslope best management practices maintained and in-place;
- (21) Runoff, washdown or wastewater which contains any of the above;
- (22) Nonstormwater discharge from a construction activity site unless specifically authorized by the most current version of KDHE's general construction stormwater permit; or
- (23) Any other water, wastewater or stormwater requiring National Pollutant Discharge Elimination System authorization.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-137. - Illicit discharge exceptions.

The following nonstormwater discharges are deemed acceptable and not a violation of Sections 53-135 or 53-136 above:

- (1) Uncontaminated discharge from water line flushing;
- (2) Uncontaminated discharge or flow from a diverted stream flow or a natural spring;
- (3) Uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewers;

- (4) Discharge of flow from uncontaminated pumped groundwater or rising groundwater;
- (5) Discharge or flow from contaminated groundwater if specifically authorized by KDHE and the city;
- (6) Uncontaminated discharge or flow from potable water sources;
- (7) Uncontaminated discharge or flow from a foundation drain, a crawl space pump, a footing drain or a sump pump;
- (8) Uncontaminated discharge or flow from air-conditioning condensation which is not mixed with water from a cooling tower, emissions scrubber, emissions filter or any other source of any pollutant;
- (9) Infrequent and uncontaminated discharge or flow from lawn watering, landscape irrigation or other irrigation water;
- (10) Discharge from the occasional, noncommercial washing of vehicles upon a residential premises;
- (11) Uncontaminated discharge of flow from riparian habitat or wetland;
- (12) Swimming pool discharges (excluding filter backwash) which have first been de-chlorinated pursuant to specifications of the city stormwater superintendent;
- (13) Discharge or flow from street washing which is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant or other harmful cleaning substance;
- (14) Discharge or flow from emergency fire fighting activities, or which results from actions taken under emergency conditions which are reasonably necessary to mitigate damages to life and property;
- (15) Uncontaminated residential heat pump discharge waters;
- (16) Treated wastewater meeting requirements of a NPDES permit;
- (17) Nonpoint agricultural discharge, excluding discharges from confined animal feeding operations; and
- (18) Other discharges determined by the city stormwater superintendent not to be a significant source of pollutants to waters of the state; provided, however, that if the city stormwater superintendent determines that any discharge or flow of a type identified above is a source of pollutants to the waters of the municipal stormwater drainage system, and gives direct oral or written notice thereof to the person or party responsible for such property or for such discharges or flows, then the exception herein provided shall no longer apply.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-138. - Illicit connections prohibited.

It shall be unlawful for any person to cause or permit to exist on any property which is under such person's ownership or control any illicit connections to the municipal stormwater drainage system. This includes, but is not limited to, illicit connections made in the past regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. Illicit connections in violation of this chapter must be disconnected and either eliminated or redirected in a lawful manner to an approved onsite wastewater management system or to the sanitary sewer system, which such work shall be performed in accordance with all permit and code requirements

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-139. - Protection of watercourses and drainage easements.

Every person owning property through which a watercourse or drainage easement passes, and any lessee of such property, shall keep and maintain that part of the watercourse or drainage easement within

the property free of trash, debris, excessive vegetation, grass clippings and other yard waste, and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse or drainage easement. In addition, the owner and lessee shall maintain existing privately owned structures within or adjacent to a watercourse or drainage easement so that such structures will not become a hazard to the use, function or physical integrity of the watercourse or drainage easement in the collection and discharge of stormwater.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-140—53-151. - Reserved.

ARTICLE VI. - ENFORCEMENT

Sec. 53-152. - General.

It shall be the duty of the city stormwater superintendent to bring to the attention of the city attorney any violation or lack of compliance herewith. The city attorney may file the civil action he deems appropriate in the district court of the state to enforce the requirements of this chapter. The city attorney may also cause to be brought a prosecution in the municipal court of the city.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-153. - Violations; criminal and civil penalties.

- (a) *Criminal Penalties.* Any person violating any of the provisions of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor punishable in accordance with Section 1-13 of the Code of Ordinances of the City of Hays, Kansas.
- (b) *Civil Penalties.* In the event an applicant or other responsible person fails to take the remedial measures set forth in a Notice of Violation described in Section 53-157, the city stormwater superintendent shall assess a penalty against the property, as outlined below, for each day the violation remains unremedied after receipt of the notice of violation:
 - (1) For failure to submit a stormwater pollution prevention plan prior to construction, the fine shall be \$500.00 for each day the violation remains unremedied.
 - (2) For failure to install stormwater BMPs as indicated on the site map required under the KDHE construction stormwater program, the fine shall be \$750.00 for each day the violation remains unremedied.
 - (3) For failure to notify the city stormwater superintendent before commencement of construction, the fine shall be \$500.00 for each day the violation remains unremedied.
 - (4) For failure to maintain, repair or replace construction stormwater BMP within 10 days of notification, the fine shall be \$750.00 for each day after the tenth day following notification that the violation remains unremedied.
 - (5) For failure to cease illicit discharges, the fine shall be \$500.00 for each day the violation remains unremedied.
 - (6) For dumping of material or liquids in the storm sewer system, the fine shall be \$1,000.00 for each dumping occurrence. The person responsible for dumping shall also be liable for the reasonable costs to the city to abate the nuisance caused by the illegal dumping.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-154. - Inspection.

- (a) The city engineer shall be responsible for determining whether a stormwater management plan is in conformance with criteria specified, and whether development is proceeding in accordance with the approved drainage permit. Periodic inspection of the development site shall be made by the city engineer or his authorized representative. Through such periodic inspections the city engineer shall ensure that the stormwater management plan is properly implemented and that the improvements are properly maintained.
- (b) Whenever the city stormwater superintendent has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter, the city stormwater superintendent shall have the right to enter the premises at any reasonable time for the purpose of conducting such inspections and sampling as may be necessary to determine whether any violations exist and to determine the nature and extent of any remedial actions necessary by virtue thereof. In the event the owner or occupant of the premises refuses such entry after a request to enter has been made, the city stormwater superintendent is hereby empowered to seek assistance from a court of competent jurisdiction to permit or compel such entry.
- (c) The city stormwater superintendent shall have the right to set up on any such premises such devices as may be deemed necessary to conduct sampling of any discharges or of the soils or any substances from which such discharges may occur.
- (d) Investigation of any such matter shall in no way relieve any party from liability or responsibility for any violations occurring before, during or after the conduct of any such investigation. Nothing in this section shall limit the authority of the city stormwater superintendent to take any other action or actions, including emergency action or any other enforcement action, while also undertaking any such investigation.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-155. - Remedial work.

If it is determined through inspection that a development is not proceeding in accordance with the approved stormwater management plan and drainage permit, the city stormwater superintendent shall immediately issue written notice to the permittee and the surety of the nature and location of the alleged noncompliance, accompanied by documentary evidence demonstrating noncompliance and specifying what remedial work is necessary to bring the project into compliance. The permittee so notified shall immediately, unless weather conditions or other factors beyond the control of the permittee prevent immediate remedial action, commence the recommended remedial action and shall complete the remedial work within 72 hours or within a reasonable time after receipt of such notice. Upon satisfactory completion of the remedial work, the city stormwater superintendent shall issue a notice of compliance and the development may proceed.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-156. - Revocation of permits and stop work orders; actions without prior notice.

- (a) The city stormwater superintendent, after giving written notice, may revoke a permit issued pursuant to these regulations for any project which is found upon inspection to be in violation of the provisions of these regulations, and for which the permittee has not agreed to undertake remedial work as provided in these regulations. Drainage permits may also be revoked if remedial work is not completed within the time allowed. Upon revocation of a drainage permit, the stormwater administrator shall issue a stop work order. Such stop work order shall be directed to the permittee and he shall immediately notify persons owning the land, the developer, and those persons actually performing the physical work of clearing, grading and developing the land or constructing the project. The stop work order shall direct the parties involved shall cease and desist all or any portion of the work on the project which is not in compliance, except such remedial work necessary to bring the project into compliance.
- (b) The city stormwater superintendent is authorized to enter upon any premises without prior notice, to issue stop-work orders as may be necessary, and to take such further actions as are necessary to

prevent, eliminate or remediate any violations or Illicit Discharges in any of the following circumstances:

- (1) If a violation constitutes an imminent or immediate danger to the environment or to the public health, welfare or safety;
 - (2) If a person to whom a Notice of Violation has been issued and has become final and such person has failed to comply with the directed corrective actions within the time provided therefor; or
 - (3) If all reasonable attempts to contact a responsible person as to a violation have failed.
- (c) The city may suspend, revoke or modify the permit authorizing a land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the city may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (d) Upon suspension or revocation of a drainage permit, the city stormwater superintendent shall issue a stop work order. Such stop work order shall be directed to the permittee and he/she shall immediately notify persons owning the land, the developer, and those persons or firms actually performing the physical work of clearing, grading and developing the land or constructing the project. The stop work order shall direct the parties involved to cease and desist all or any portion of the work on the project which is not in compliance, except such remedial work necessary to bring the project into compliance.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-157. - Failure to maintain.

- (a) *Notice of Violation; Time Limit to Abate; Hearing Request.* Following a determination by the city engineer that the owner, occupant or agent in charge of any lot or parcel of land on which a drainage control facility exists or abuts has failed to properly maintain such facility as previously set forth or has failed to meet any requirement of this chapter of any approved stormwater pollution prevention plan or has failed to comply with any order issued by the city stormwater superintendent as authorized under this chapter, then the city stormwater superintendent shall notify the owner, occupant or agent in charge of the violation in writing. If the owner, occupant or agent in charge fails, neglects or refuses to comply with the requirements specified in the written notification within ten days, the city stormwater superintendent shall issue a notice of violation requiring the owner, or agent of the owner of the premises to repair, remove and/or abate from the premises the thing therein described as a defect and/or nuisance and performing the necessary remedial work within a time, not exceeding ten days, to be specified in the notice of violation. The notice of violation shall contain the name and address of the alleged violator, the date and location of the violation, a description of the violation, a description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of each such remedial measure and a description of further enforcement actions which may be taken by the city. The notice of violation shall state that before the expiration of the waiting period, the recipient thereof may request a hearing before the governing body or its designated representative. The request for hearing before the governing body or its designated representative shall in no way relieve any party from liability or responsibility for any violations occurring before, during or after the conduct of any such hearing. Nothing in this section shall limit the authority of the city stormwater superintendent to take any other action, including emergency action or any other enforcement action while any such proceedings are pending.
- (b) *Serving Notice upon Owner.* The notice of violation shall be served by personal service, by delivering a copy thereof to the owner, occupant or agent of such property, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by restricted mail to the last known address of the owner.

- (c) *Failure to Comply; City to Cause Remedial Work to be Done.* If the owner or agent fails to comply with the requirement of the notice of violation for a period longer than that named in the notice, then the city shall proceed to cause the necessary remedial work to be performed and thereby have the things described in the notice repaired, removed and/or abated from the lot or parcel of ground.
- (d) *Costs to be Paid by Owner; Assessment to Tax Roll.* Whenever the city undertakes the correction or abatement of any violation, or the remediation of any damage caused by any violation, either under emergency circumstances, or due to a person's failure to comply with any lawful notices or orders issued by the city stormwater superintendent or the governing body of the city, the person or persons responsible for such violation shall be liable to the city for the costs of such corrective, abatement or remedial actions. The city shall give notice to the owner, occupant or agent by restricted mail of the total cost of such repair, abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. If the cost of such repair, removal, and/or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by this code or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-158. - Offenses.

Upon the failure, neglect or refusal of any owner to comply with the notice of violation provided for in Section 53-157, the city stormwater superintendent shall notify the city attorney who may cause a complaint to be filed against such owner for violation of the provisions of this chapter in the municipal court. No such owner shall be exempted from prosecution for violation of such provisions by reason of lawfully transferring his ownership, tenancy or interest in the premises upon which the nuisance exists after the giving of notice as hereinbefore provided.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-159. - Repair, removal and/or abatement by city.

Upon the failure, neglect or refusal of any owner to comply with notice of violation provided for in Section 53-157, the city stormwater superintendent shall perform all necessary repairs, removal and/or abatement. For the purpose of so doing, the city stormwater superintendent may enter the premises upon which such nuisance exists, with or without the consent of the owner thereof, without being guilty of trespass.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-160. - Appeals.

Any applicant or permittee aggrieved by a decision of the city engineer or the city stormwater superintendent in the enforcement of this chapter shall have the right to appeal any order, requirement, decision or determination in accordance with the following procedures:

- (1) A hearing before the Hays Area Board of Zoning Appeals may be requested in writing by the applicant or permittee within ten days of a final order, requirement, decision or determination of the city stormwater superintendent. The Hays Area Board of Zoning Appeals shall conduct the hearing within 45 days of receipt of the request from the aggrieved and shall consider any information offered by the aggrieved person bearing on the dispute and shall within ten days render its final decision to the city stormwater superintendent with an appropriate course of action: either reversal, modification, or confirmation. The city stormwater superintendent, who shall be present at the hearing, shall immediately act on the recommendation in a manner consistent with his responsibilities under this chapter.

- (2) Any applicant or permittee aggrieved by any final decision of the city stormwater superintendent following review by the Hays Area Board of Zoning Appeals in the manner set out in subsection (1) of this section, may seek review by a court of competent jurisdiction in the manner provided by the laws of the state.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-161. - Violations deemed a public nuisance.

Notwithstanding the other enforcement processes, procedures and penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this chapter is hereby declared to be a threat to the public health, welfare and safety, and is hereby declared and deemed to be a public nuisance. Instead of or in addition to any other remedies or procedures hereunder, the city may commence a civil action to abate, enjoin or otherwise compel the cessation of any such public nuisance.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Sec. 53-162. - Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law.

(Ord. No. 3832, §§ 1, 2, 4-14-2011)

Secs. 53-163—53-180. - Reserved.

ARTICLE VII. - STORMWATER UTILITY

FOOTNOTE(S):

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Editor's note— Sections 1—9 of Ord. No. 3829, adopted April 14, 2011, did not specify manner of inclusion; hence, codification as art. VII, §§ 53-181—53-189 was at the direction of the city.

Sec. 53-181. - Definitions.

In addition to the words, terms and phrases elsewhere defined in this article, the following words, terms and phrases, as used in this article, shall have the following meanings:

Bonds means revenue or general obligation bonds or notes heretofore or hereafter issued to finance the costs of improvements.

Building permit means a permit issued by the building official who permits construction on a structure.

City means the City of Hays, Kansas.

City commission means the governing body of the city.

Costs of capital improvement means costs incurred in providing capital improvements to the stormwater management system or any portion thereof including, without limitation, alteration, enlargement, extension, improvement, construction, reconstruction, and development of the stormwater management system; professional services and studies connected thereto; principal and interest on bonds heretofore or hereafter issued, including payment of delinquencies of principal and interest due on bonds that are otherwise payable from special assessments; studies related to the operation of the system; costs of the stormwater management service fee study, performed to establish stormwater management service fees for the stormwater utility and to determine other start up costs of the

stormwater utility; costs related to the National Pollutant Discharge Elimination System (NPDES) permit study, application, negotiation and implementation, as mandated by federal and state laws and regulations; acquisition of real and personal property by purchase, lease, donation, condemnation or otherwise, for the stormwater management system or for its protection; and costs necessary for the operation of the system or the utility.

Debt service means an amount equal to the sum of (i) all interest payable on bonds during a fiscal year, and (ii) any principal installments payable on the bonds during such fiscal year.

Developed property means real property, other than undisturbed property; provided that, property devoted to agricultural use, upon which no impervious area is located, shall not constitute developed property for purposes of this article.

Director means the person appointed by the city manager to be the director of the department that the stormwater division is located within or that director's designee.

Dwelling unit means a room or group of rooms located within a physical structure and forming a single habitable unit, providing permanent, complete and independent facilities for living, sleeping, cooking, dining, and sanitation, for use as a residence by one family.

Dry-bottom basin means a constructed facility designed to detain stormwater and to drain its entire contents after each rainfall event.

Equivalent residential unit (ERU) means a unit of measure, established by the city commission, that is equal to the average impervious area per dwelling unit, as calculated by dividing the total estimated impervious area of all residential developed property by the total dwelling units of said property located thereon within the city's limits.

Equivalent residential unit rate or *ERU rate* means a stormwater management service fee, established by the city commission, charged for each ERU.

Exempt property means public right-of-way, public streets, public alleys and public sidewalks and/or easements upon which the stormwater management system is constructed and/or located, or as defined by the director.

Fiscal year means a 12-month period commencing on the first day of January of any year.

Impervious area means the total number of square feet of hard surface area on a given property that either prevents or retards the entry of water into the soil matrix, or causes water to run off the surface in greater quantities or at an increased rate of flow, than it would enter under natural conditions as undisturbed property. "Impervious area" includes but is not limited to, roofs, roof extensions, driveways, pavement and athletic courts.

Nonresidential means developed property which does not exclusively contain residential property, and includes governmental, not-for-profit, commercial, industrial, and other property. A property containing both residential and nonresidential will be considered nonresidential.

Operating budget means the annual stormwater utility operating budget adopted by the city for the succeeding fiscal year.

Operations and maintenance means, without limitation, the current expenses, paid or secured, for operation, maintenance and repair and minor replacement of the system, as calculated in accordance with generally accepted accounting practices, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including professional services, equipment costs, labor costs, and the cost of materials and supplies used for current operations.

Residential means developed property which includes one or more dwelling units and is used exclusively for residential purposes.

Revenues means all rates, fees, assessments, rentals, charges or other income received by the stormwater utility in connection with the management and operation of the stormwater management system, including amounts received from the investment or deposit of monies in any fund or account, as calculated in accordance with generally accepted accounting practices.

Stormwater management user fee means a fee authorized by this article, as set forth in a resolution or an ordinance adopted or amended by the city commission, established to pay operation and maintenance, costs of capital improvements, debt service associated with the stormwater management system and other costs included in the operating budget.

Stormwater management system, sewer system or system means storm sewers which exist at the time the ordinance codified in this article is adopted or that are hereafter established, and all appurtenances necessary in maintaining and operating the same, including, but not limited to, pumping stations; enclosed storm sewers; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; wet and dry-bottom basins; and other flood control facilities and works for the collection, transportation, conveyance, pumping, treatment, controlling, managing, and disposing storm or surface water or pollutants originating from or carried by storm or surface water.

Stormwater utility or utility means the utility created by this article to operate, maintain and improve the stormwater management system and for all other purposes, as set forth in this article.

Undisturbed property means real property that has not been altered from its natural condition in a manner that disturbed or altered the topography or soils on the property to the degree that the entry of water into the soil matrix is prevented or retarded.

(Ord. No. 3829, § 1, 4-14-2011)

Sec. 53-182. - Creation of a stormwater utility.

Pursuant to the provisions of K.S.A. 12-3101 et seq., the city's general home rule authority, nuisance authority, police powers and all other authority, the Hays City Commission does establish a stormwater utility and a stormwater management system and declares its intention to operate, construct, maintain, repair and replace the public stormwater management system and operate the stormwater utility.

(Ord. No. 3829, § 2, 4-14-2011)

Sec. 53-183. - Findings and determinations.

The city commission finds, determines, and declares that the elements of the stormwater management system providing for the collection, conveyance, detention, retention, treatment and release of stormwater benefit and provide services to real property within the incorporated city limits.

- (1) The benefits of the stormwater management system include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvement in general health and welfare through reduction of undesirable stormwater conditions; improvement of water quality in the storm and surface water system and its receiving waters; and appropriate balancing between development and preservation of the natural environment.
- (2) The stormwater management system will also initiate innovative and proactive approaches to stormwater management within the city to address problems in areas of the city that currently are prone to flooding; protect against replication of these types of problems and the creation of similar problems in newly developing areas of the city; and assist in meeting the mandates of the NPDES as created under the Federal Clean Water Act and associated state and federal laws and their supporting regulations.
- (3) Both standard and innovative stormwater management are necessary in the interest of the public health, safety and general welfare of the residents, businesses and visitors of the city.
- (4) Implementation of the stormwater management system will require the expenditure of significant amounts of public money.
- (5) All developed property in the city will benefit from the stormwater management system.

- (6) The city desires to fairly distribute costs of the stormwater management system implementation among all developed property which generates the need therefore.
- (7) The city has determined that the establishment of a stormwater utility is an appropriate method of funding certain portions of the costs of implementing the stormwater management system.
- (8) The city commissioned a study that was prepared by Camp Dresser & Mckee Inc., to assist the city in developing the stormwater utility and to recommend an ERU and an ERU rate.
- (9) The governing body has evaluated the study and recommendations and hereby determines that the fees set forth herein are reasonable and necessary and should be commenced on July 1, 2011.
- (10) The stormwater utility user fee imposed by this ordinance, is calculated by a formula that reasonably relates classes of property within the city to their anticipated use of or benefit from the stormwater management system, and such fee is neither a tax nor a special assessment, but a charge for services rendered or available.
- (11) The city has researched collection options and hereby determines that in order to promote efficiency, eliminate duplication of services, and utilize the most economically feasible method of fee collection, the stormwater utility user fee should be included as a separate item on the City of Hays monthly utility bill.

(Ord. No. 3829, § 3, 4-14-2011)

Sec. 53-184. - Administration.

The stormwater utility, under the supervision of the director, shall have the power to:

- (1) Administer the acquisition, design, construction, maintenance, operation, extension and replacement of the stormwater management system, including any real and personal property that is, will become a part of, or will protect the system;
- (2) Administer and enforce this article and all appurtenant regulations, guidelines and procedures relating to the design, construction, maintenance, operation and alteration of the stormwater management system, including but not limited to, the flow rate, volume, quality and/or velocity of the stormwater conveyed thereby;
- (3) Advise the city manager on matters relating to the stormwater management system;
- (4) Review plans concerning the creation, design, construction, extension and replacement of the stormwater management system and make recommendations to the city manager;
- (5) Make recommendations to the city manager concerning the adoption of ordinances, resolutions, guidelines and regulations in furtherance of this article and/or to protect and maintain water quality within the stormwater management system in compliance with water quality standards established by state, county, regional and/or federal agencies, as now adopted or hereafter adopted or amended;
- (6) Analyze the cost of services and benefits provided by the stormwater management system and the structure of fees, service charges, fines and other revenues of the stormwater utility at least once each year;
- (7) Make recommendations to the city manager concerning the cost of service and benefits provided by the stormwater management system and the structure of fees, service charges, fines and other revenues of the stormwater utility; and
- (8) Administer programs which may hereafter be established pursuant to this article or pursuant to ordinances, resolutions, regulations or guidelines hereafter adopted by the city commission which would provide for credits and/or incentives that modify stormwater management service fees imposed against properties.

(Ord. No. 3829, § 4, 4-14-2011)

Sec. 53-185. - Operating budget.

The city shall, as part of its annual budget process, adopt an operating budget for the stormwater utility. The operating budget shall conform with state law, city policy and generally accepted accounting practices.

(Ord. No. 3829, § 5, 4-14-2011)

Sec. 53-186. - Stormwater management service fee.

- (a) *Service Fee Established.* Subject to the provisions of this article, there is imposed on each and every residential developed property and nonresidential developed property, other than property that is not serviced by the stormwater management system or exempt property, a stormwater management service fee. This stormwater management service fee shall be determined and set by the provisions of this Article in accordance with the ERU and the ERU rate. The fee shall be established by ordinance of the city commission and may be amended from time to time by the city commission, by resolution.
- (b) *ERU.* The ERU is hereby established for the purposes of calculating the stormwater utility user fee. The ERU is hereby established to be 3,369 square feet of impervious area.
- (c) *ERU Rate.* The initial ERU rate to be used to calculate the stormwater utility user fee is \$3.62 per ERU per month and may hereafter be reviewed every year, with recommended revisions set by resolution of the city commission.
- (d) *Stormwater Management Service Fee for Residential Developed Property.* The stormwater management service fee for residential property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property. For a newly constructed dwelling unit, the charge for the stormwater management service fee attributable to that dwelling Unit shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first for that dwelling unit. The minimum stormwater management service fee for any residential developed property shall be equal to one ERU rate.
- (e) *Stormwater Management Service Fee for Nonresidential Developed Property.* The stormwater management service fee for nonresidential developed property shall be the ERU rate multiplied by a numerical factor calculated by dividing the total impervious area of the property by the number of square feet in one ERU. In performing this calculation, the numerical factor shall be rounded to the nearest whole number. The minimum stormwater management fee for any nonresidential developed property shall be equal to one ERU. For a newly developed nonresidential developed property, the charge for the stormwater management service fee attributable to that development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first. In the event of additional development to property that is already developed property, the charge for the stormwater management service fee attributable to that additional development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first.
- (f) *Dwelling Unit and Impervious Surface Calculation.* The director shall initially, and from time to time, determine the number of dwelling units located on residential developed property in order to establish the stormwater management service fee as provided for hereinabove. Nonresidential developed property in the city shall have its square footage of impervious area calculated in order to establish the stormwater management service fee as provided for herein. The director shall make the initial calculation with respect to existing nonresidential developed property and may from time to time change this calculation from the information and data deemed pertinent by the director. With respect to property proposed to be nonresidential developed property, the applicant for development approval shall submit square footage impervious area calculations, in accordance with the submission requirements, as set forth in Section 11-479 of the Code of Ordinances of the City of Hays, Kansas.

(Ord. No. 3829, § 6, 4-14-2011)

Sec. 53-187. - Appeal procedure.

Owners of nonresidential developed property, for which a stormwater management service fee has been imposed, who disagree with the calculation of the stormwater management service fee may appeal the calculation or finding to the director. The owner/appellant must file a written notice of appeal with the director on or before 12:00 noon on December 31 of the current fiscal year being appealed. The appealing party, by the date set in writing by the director which shall not be less than seven days after receipt of written notice of appeal, shall provide information concerning the basis of the appeal, including a land survey prepared by a registered surveyor showing dwelling units, total property area, type of surface material and impervious area, as appropriate, and any other information that the director shall request in writing to the appellant. The director may waive the submission of a land survey, if the director determines that the survey is not necessary to make a determination on the appeal. Based on information provided, the director shall make a determination as to whether the stormwater management service fee and/or the credit should be adjusted for the subject property, if applicable. The director shall notify the appellant in writing of the decision.

The owner/appellant shall have the right to appeal the decision of the director to the city manager. Such appeal shall be made within ten days of the date of the director's written decision and shall be perfected in the same manner as the original appeal. The city manager shall consider the appeal and issue a written decision on the appeal within 30 days of receipt of the perfected appeal.

In all instances, the burden of proof shall be on the appellant to demonstrate, by clear and convincing evidence, that the determination of the director, from which the appeal is being taken, is erroneous.

The filing of a notice of appeal shall not stay the imposition, calculation or duty to pay the fee. The appellant shall pay the stormwater management service fee, as stated in the billing, to the city clerk. If either the director or the city manager determines that the appellant should pay a fee amount less than the amount appealed from, or receive a credit, if applicable, the city shall issue a check to the appellant in the appropriate amount within ten business days of the date of the applicable written decision, which in no event shall be more than the amount of the fee paid by the appellant as of the date the check is issued. If any credit due is larger than the amount paid and additional fees are due for the same fiscal year, the city will issue any remaining credit within ten business days after the remaining fees have been paid in full.

(Ord. No. 3829, § 7, 4-14-2011)

Sec. 53-188. - Stormwater management service fee collection.

The stormwater management service fee shall be billed and collected in the same manner as other city utility fees. The stormwater management service fee shall be shown as a separate item on the City of Hays utility bill. The payment of stormwater management service fee bills for any given property shall be the responsibility of the owner of the property.

To the extent permitted by applicable law, stormwater management fees shall be subject to interest and penalties for late payment, shall constitute a lien on the applicable property, and shall be collected in a manner as like assessed fees for nuisance abatements, regardless of whether the stormwater management service fees were incurred when a property owner was in possession of the property or a nonowner was in possession of the property.

(Ord. No. 3829, § 8, 4-14-2011)

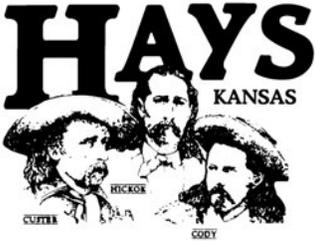
Sec. 53-189. - Stormwater utility fund.

Stormwater management service fees collected by the city shall be paid into a fund that is hereby created and shall be known as the "stormwater utility fund." this fund shall be used for the purpose of paying costs of capital improvements, administration of the stormwater utility, operation and maintenance, and debt service of the stormwater management system, and for carrying out all other lawful purposes of the utility.

(Ord. No. 3829, § 9, 4-14-2011)

Appendix E

Other



City of Hays
**Turf Conversion
Rebate Program**

Application # 2015 - _____
Valid until Dec. 31, 2015

IMPORTANT: Read all information on page 2 of this application.

1. Name: _____

2. Mailing Address: _____

3. City: _____ State: _____ Zip: _____

4. Telephone: _____

5. Address of conversion: _____
(If different than mailing address)

6. City of Hays Water Account Number: _____

I have read, understand, and agree to the terms and conditions as stated on the 2nd page of this application:

Applicant Signature: _____ Date: _____

For more information on this program: Water Conservation - (785) 628-7350 or Parks - (785) 628-7375.

This program provides financial assistance to customers wishing to convert their irrigated cool-season lawns to more water efficient, drought-tolerant warm-season turf grass or landscaping. The City of Hays does not endorse or recommend specific brands, products or dealers. Turf and plant selection and installation is the sole responsibility of the applicant. The City assumes no responsibility for any damage that may occur to an applicant's property as a result of participation in this rebate program. Due to circumstances beyond its control, the City cannot guarantee that participation in the turf conversion program will result in lower utility costs.

OFFICIAL USE ONLY:

APPLICATION: Approved Denied

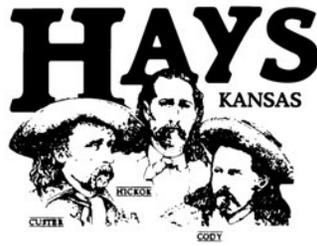
PRE-INSPECTION DATE: _____ SQ. FT. : _____ INSPECTED BY: _____

POST-INSPECTION DATE: _____ INSPECTED BY: _____

COMMENTS: _____

REBATE APPROVED BY: _____ Date: _____ REBATE AMOUNT: \$ _____

PURCHASE ORDER #: _____



City of Hays Turf Conversion Rebate Program

Information:

The City of Hays offers a \$1.00 rebate per square foot (minimum 100 square foot, \$1,000.00 maximum rebate per customer) for the removal of permanently irrigated cool-season turf and replacing it with a more water-efficient, drought tolerant turf or landscaping. Rebate eligible conversions include, but are not limited to, the following:

- Replacing your permanently irrigated cool-season lawn (e.g. Fescue, Bluegrass) to a warm-season turf variety (e.g. Buffalograss, Bermudagrass)
- Replacing portions of your permanently irrigated cool-season lawn to mulched planting beds.
- Converting parts or all of your permanently irrigated cool-season lawn to artificial turf, as long as the material chosen is listed for outdoor use and is water permeable.

Warm-season turf varieties offer an 80% reduction in supplemental water need when compared to cool-season turf grasses. In many cases, an established warm-season yard will need little to no supplemental irrigation to thrive in our climate and conditions here in Hays.

Guidelines:

This rebate is available for up to 6 months after the pre-inspection date. As this program was developed to reduce existing water demand, you must be currently maintaining a healthy cool-season yard to qualify. Simply removing the cool-season grass will not make your yard eligible for rebate; it must be replaced with an approved turf or landscape type.

Eligibility:

All properties with permanent sprinkler systems that are served by the City's water system are eligible for this rebate program.

Costs:

There is no cost to participate. There will be no fees charged for pre- and post-inspections.

How to participate:

Call (785) 628-7350 to schedule a pre-inspection. City staff will meet with you to discuss your plans and measure the turf area you are proposing to remove and replace. The owner will then be given the authorization to proceed with the conversion. Once the turf area is converted or removed, call (785) 628-7350 to schedule your post-inspection.

Payment:

After a successful post-inspection, your rebate form will be completed and processed within 4-6 weeks. Payment will be made to the owner of the property. Pre- and post-inspection required for eligibility prior to issuance of rebate.

FAQ's

Am I eligible for a rebate for installing a concrete patio or extending my driveway?

No. You can include concrete patios and other impervious surfaces into your landscape but they will not be measured when evaluating your incentive.

There is a sprinkler head right where I want to put my xeriscaped area. What do I need to do with it?

The sprinkler head will need to be removed and capped off. Converted areas can use drip irrigation at the plant base but cannot use overhead/spray irrigation. If you wish to utilize drip irrigation, there are kits available to convert an existing sprinkler head to a drip manifold. If this is done, the irrigation device must meet 2012 IAPMO Green Plumbing and Mechanical code low-flow emitter guidelines. Drip emitters must discharge less than 4 gallons/hour per emitter. Micro-spray, micro-jet, and misters must discharge less than 30 gallons/hour per nozzle.

What plants can I use in my xeriscaped area?

K-State Research and Extension keeps a list of drought-tolerant trees, shrubs, and flowers that will do well in our "transition zone" climate. This list can be found at www.ellis.ksu.edu.

I don't like desert plants and rocks. What else can I do?

Xeriscaping is much, much more than rocks and Yuccas. For ideas on what to do with these areas, please visit the demonstration gardens the City has established at City Hall (1507 Main) and the median between 21st & Pershing. Our website, www.haysusa.com, also has links to help you see how great this drought-tolerant landscaping design can be.

I have kids and/or a dog. How can I incorporate water smart landscaping into my yard?

Yes, and one of the most important things to keep in mind when planning your conversion is to keep turf areas practical. You do not have to eliminate your entire lawn to participate, but we do encourage you to convert to a warm-season turf. If the only foot traffic an irrigated part of your yard sees is the lawn mower wheels, that area is ripe to remove the irrigation and convert to a mulched planting bed.

What do you define as mulch and why do you require it?

Mulch may be the best thing you can do for your trees and plants. Mulch helps circumvent the evaporative effects of the sun and wind, maintaining the moisture levels and helping lower the temperature of the soil. It also helps protect against soil erosion. The most common types are shredded wood chips (cedar, cypress, pine bark) or decorative rock. Rock is allowable, but not recommended as it acts as a heat sink and can increase the ambient temperatures around your home by 10 degrees or more, thus creating higher cooling demand on your air conditioning system. It also radiates heat around the root system of your tree or plant, creating a stressful growing environment.

Do I have to use a weed barrier under my mulch beds? What kind should I use?

A weed barrier is not required, but is recommended under rocks. If used, the weed barrier must be water permeable.

Can I receive a rebate for converting to artificial turf?

Yes. Removing an irrigated area of cool-season grass and replacing with artificial turf is a rebate-eligible conversion. As this material varies greatly in quality, City staff advises a homeowner to do their due diligence in researching what's on the market and also advises you have the installation done by a qualified contractor. A sample of the artificial turf material you plan to use will need to be provided to City staff during the pre-inspection process. No indoor/outdoor carpet.