

ORDINANCE NO. 8131

AN ORDINANCE OF THE CITY OF KEARNEY, NEBRASKA TO AMEND SECTION 9-1016 "UNIFORM PLUMBING CODE; ADOPTED" OF DIVISION I. "UNIFORM PLUMBING CODE" OF ARTICLE 10 "PLUMBING CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1502 "PURPOSE AND INTENT" OF DIVISION I. "ILLCIT DISCHARGE GENERAL PROVISIONS" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1505 "DEFINITIONS" OF DIVISION I. "ILLCIT DISCHARGE GENERAL PROVISIONS" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1521 "PROHIBITION OF ILLEGAL DISCHARGES" OF DIVISION II. "DISCHARGE PROHIBITIONS" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1524 "DISCHARGES IN VIOLATION OF INDUSTRIAL OR CONSTRUCTION ACTIVITY NPDES STORM WATER DISCHARGE PERMIT" OF DIVISION II. "DISCHARGE PROHIBITIONS" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1536 "REQUIREMENTS TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES" OF DIVISION III. "REGULATIONS AND REQUIREMENTS" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1539 "REQUIREMENT TO MONITOR AND ANALYZE" OF DIVISION III. "REGULATIONS AND REQUIREMENTS" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1540 "NOTIFICATION OF SPILLS" OF DIVISION III. "REGULATIONS AND REQUIREMENTS" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1561 "NOTICE OF VIOLATION" OF DIVISION V. "ENFORCEMENT" OF ARTICLE 15 "CITY OF KEARNEY ILLICIT DISCHARGE DETECTION AND ELIMINATION CODE"

OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1601 "PURPOSE/INTENT" OF DIVISION I. "GENERAL PROVISIONS" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1602 "DEFINITIONS" OF DIVISION I. "GENERAL PROVISIONS" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER AND TO INCLUDE DEFINITIONS FOR BUILDER, DRAINAGE DESIGN GUIDANCE OR MANUAL, EIGHTIETH PERCENTILE RAIN EVENT, MS4 BOUNDARY, POST-CONSTRUCTION STORMWATER MANAGEMENT, POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN, POST-CONSTRUCTION STORMWATER MANAGEMENT PROGRAM, SEVENTIETH PERCENTILE RAIN EVENT, AND STORMWATER TREATMENT FACILITIES (STFS); TO AMEND SECTION 9-1603 "LIABILITY" OF DIVISION I. "GENERAL PROVISIONS" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1607 "PROHIBITIONS" OF DIVISION I. "GENERAL PROVISIONS" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1616 "GENERAL REQUIREMENTS FOR CONSTRUCTION ACTIVITIES" OF DIVISION II. "CONSTRUCTION" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1618 "CONSTRUCTION STORM WATER POLLUTION PREVENTION PLAN (SWPPP)" OF DIVISION II. "CONSTRUCTION" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 9-1626 "POST-CONSTRUCTION REQUIREMENT OF PERMANENT BMPS" OF DIVISION III. "POST-CONSTRUCTION" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER AND CERTAIN REFERENCES OF BMPS (BEST MANAGEMENT PRACTICES) TO STORMWATER TREATMENT FACILITIES (STFS); TO AMEND SECTION 9-1627 "CERTIFICATION OF PERMANENT BMPS" OF DIVISION III. "POST-CONSTRUCTION" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY,

NEBRASKA TO CHANGE THE REFERENCE OF BMPS (BEST MANAGEMENT PRACTICES) TO STORMWATER TREATMENT FACILITIES (STFS); TO AMEND SECTION 9-1628 "ONGOING INSPECTION AND MAINTENANCE OF PERMANENT BMPS" OF DIVISION III. "POST-CONSTRUCTION" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND THE CODE OF THE CITY OF KEARNEY BY ADDING A SECTION ENTITLED "TIMELINE FOR POST-CONSTRUCTION CRITERIA IMPLEMENTATION" TO DIVISION III. "POST-CONSTRUCTION" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" TO SET FORTH THE TIMELINE FOR PROPOSED REDEVELOPMENT AND FOR NEW DEVELOPMENT; TO AMEND SECTION 9-1633 "TECHNICAL STANDARDS, SPECIFICATIONS, AND GUIDANCE" OF DIVISION IV. "TECHNICAL STANDARDS, SUBMISSIONS, INSPECTION AND MONITORING" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO PROVIDE FURTHER DESCRIPTION OF THE POST-CONSTRUCTION STORMWATER MANAGEMENT PROGRAM IS FILED WITH THE CITY OF KEARNEY PUBLIC WORKS DEPARTMENT; TO AMEND SECTION 9-1643 "VIOLATIONS, ENFORCEMENT AND PENALTIES" OF DIVISION V. "ENFORCEMENT" OF ARTICLE 16 "CONSTRUCTION AND POST-CONSTRUCTION STORM WATER CODE" OF CHAPTER 9 "PUBLIC WORKS" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 10-203.1 "SEWERS; NEW INFLOW SOURCES PROHIBITED" OF ARTICLE 2 "SEWERS" OF CHAPTER 10 "UTILITIES" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 10-405 "WHERE PROTECTION IS REQUIRED" OF DIVISION III. "REGULATIONS" OF ARTICLE 4 "BACKFLOW PREVENTION" OF CHAPTER 10 "UTILITIES" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 10-501 "CREATION OF STORM WATER UTILITY" OF ARTICLE 5 "STORM WATER UTILITY" OF CHAPTER 10 "UTILITIES" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 10-502 "PROGRAM RESPONSIBILITY" OF ARTICLE 5 "STORM WATER UTILITY" OF CHAPTER 10 "UTILITIES" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 10-503 "OPERATING BUDGET" OF ARTICLE 5 "STORM WATER UTILITY" OF CHAPTER 10 "UTILITIES" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO AMEND SECTION 10-504 "SURCHARGE FEE SCHEDULE ESTABLISHED" OF ARTICLE 5 "STORM WATER UTILITY" OF CHAPTER 10 "UTILITIES" OF THE CODE OF THE CITY OF KEARNEY, NEBRASKA TO CHANGE THE REFERENCE OF STORM WATER TO STORMWATER; TO PROVIDE THAT

THIS ORDINANCE SHALL BE MADE A PART OF THE CODE OF THE CITY OF KEARNEY; TO REPEAL ALL ORDINANCES AND RESOLUTIONS OR PARTS THEREOF IN CONFLICT HERewith AND TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL AND EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. That Section 9-1016 "Uniform Plumbing Code; Adopted" of Division I. "Uniform Plumbing Code" Article 10 "Plumbing Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1016 UNIFORM PLUMBING CODE; ADOPTED

The regulations contained in the Plumbing Code known as the "Uniform Plumbing Code, 2015 Edition" and the whole thereof, except such portions as are hereinafter deleted, modified, or amended, are hereby adopted, incorporated and made a part of this Code of Ordinances, and are applicable within the City and within the two (2) miles of the corporate limits, the same as those spread at large herein. One printed copy of such Code shall be filed in the office of the City Clerk. Subsequent editions or revisions of the Uniform Plumbing Code adopted by the provisions of this article shall be considered adopted and in full force and effect within the City and the area within two (2) miles thereof upon the approval thereof by the Council and the filing of one copy thereof in the office of the City Clerk. By this Ordinance, the Uniform Plumbing Code, 2015 Edition is adopted with the amendments, modifications and deletions as cited below.

(1) The following appendices are specifically adopted with the Uniform Plumbing Code (UPC) as adopted by this Article:

1. Appendix A-Rules for Sizing Water Systems
2. Appendix B-Combination Waste and Vent Systems
3. Appendix D-Sizing Stormwater Drainage Systems
4. Appendix F-Firefighter Breathing Air Replenishment Systems
5. Appendix I-Installation Standards

(2) The following chapters, sections and tables of the Uniform Plumbing Code, 2015 Edition are not adopted or approved and shall not be a part of the Code, and shall be of no force or effect in the City and its jurisdiction:

1. Table 1-1 Plumbing Permit Fees
2. Appendix E-Manufactured Home Parks Plumbing Standards
3. Appendix K-Private Sewage Disposal Systems
4. Appendix L-Alternate Plumbing Systems
5. Chapter 13-Health Care Facilities and Medical Gas and Vacuum Systems
6. Chapter 16-Nonpotable Water Reuse Systems

Section 2. That Section 9-1502 "Purpose and Intent" of Division I. "Illicit Discharge General Provisions" Article 15 "City of Kearney Illicit Discharge Detection and Elimination Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1502 PURPOSE AND INTENT

The purpose of this Article is to protect the public health, safety, environment and general welfare of the citizens of Kearney through the regulation of non-stormwater discharges to the storm sewer system to the maximum extent practicable required by federal and state law. This Article establishes methods for

controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- (1) Regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges from any user.
- (2) Prohibit Illicit Connection and Discharges to the municipal separate storm sewer system.
- (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the City of Kearney's separate storm sewer system.
- (4) Establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Article.

Section 3. That Section 9-1505 "Definitions" of Division I. "Illicit Discharge General Provisions" Article 15 "City of Kearney Illicit Discharge Detection and Elimination Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1505 DEFINITIONS

Accidental Discharge: A discharge prohibited by this Article which occurs by chance and without planning or thought prior occurrence.

Authorized Enforcement Agency: Employees or designees of the City of Kearney designated to enforce this Article.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving water, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and subsequent amendments thereto.

Construction Activity: Activities subject to the NPDES Construction Permits. Currently, these include construction projects resulting in land disturbance of one (1) acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavation and demolition.

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

Illegal Discharge: Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 9-1521 of this Article.

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

Industrial Activity: Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by EPA or by a State under authority delegated pursuant to 33 USC 1342 (B) that authorizes the discharge of pollutants to water of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge: Any discharge to the storm drain system that is not composed entirely of stormwater.

Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant: Anything which causes or contributes to pollution. Pollutions may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, sediments, or other discarded or abandoned objects, and accumulations, so in the same may cause or contribute to pollution; floatables, excessive pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

Storm Drainage System: Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of uncontaminated water from any form of natural precipitation, and resulting from such precipitation.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Section 4. That Section 9-1521 "Prohibition of Illegal Discharges" of Division II. "Discharge Prohibitions" Article 15 "City of Kearney Illicit Discharge Detection and Elimination Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1521 PROHIBITION OF ILLEGAL DISCHARGES

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standard, other than stormwater.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this Article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian

habitat or wetland flows, swimming pools (if dechlorinated – typically less than one (1) PPM chlorine), fire fighting activities, and any other water source not containing pollutants.

(2) Discharges specified in writing by the City of Kearney as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the City of Kearney prior to the time of test.

(4) The prohibition shall not apply to any non-stormwater discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Section 5. That Section 9-1524 “Discharges in Violation of Industrial or Construction Activity NPDES Storm Water Discharge Permit” of Division II. “Discharge Prohibitions” Article 15 “City of Kearney Illicit Discharge Detection and Elimination Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1524 DISCHARGES IN VIOLATION OF INDUSTRIAL OR CONSTRUCTION ACTIVITY NPDES STORMWATER DISCHARGE PERMIT

Any person subject to an industrial or construction activity, NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Kearney prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

Section 6. That Section 9-1536 “Requirements to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices” of Division III. “Regulations and Requirements” Article 15 “City of Kearney Illicit Discharge Detection and Elimination Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1536 REQUIREMENTS TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

If requested, the City of Kearney will provide guidance on Best Management Practices applicable to common activities, operations or facilities which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or water courses through the use of these structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial with the provisions of this section. These BMP's shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section 7. That Section 9-1539 “Requirement to Monitor and Analyze” of Division III. “Regulations and Requirements” Article 15 “City of Kearney Illicit Discharge

Detection and Elimination Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1539 REQUIREMENT TO MONITOR AND ANALYZE

The City of Kearney may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm drain system or waters of the United States, to undertake at said person’s expense such monitoring and analyses and furnish such reports to the City of Kearney as deemed necessary to determine compliance with this Article.

Section 8. That Section 9-1540 “Notification of Spills” of Division III. “Regulations and Requirements” Article 15 “City of Kearney Illicit Discharge Detection and Elimination Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1540 NOTIFICATION OF SPILLS

Notwithstanding other requirements of the law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the City’s storm sewer system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. Said person shall notify the City of Kearney in person, by phone or by facsimile no later than twenty-four (24) hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works or his/her designee within three (3) business days of the phone call or by personal notification. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the action taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

Section 9. That Section 9-1561 “Notice of Violation” of Division V. “Enforcement” Article 15 “City of Kearney Illicit Discharge Detection and Elimination Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1561 NOTICE OF VIOLATION

Whenever the City of Kearney finds that a person has violated a prohibition or failed to meet a requirement of this Article, the City Engineer may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) The violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor designated by the Director of Public Works and the expense thereof shall be charged to the violator pursuant to Section 9-1567 of this Article.

Section 10. That Section 9-1601 "Purpose/Intent" of Division I. "General Provisions" Article 16 "Construction and Post-Construction Storm Water Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1601 PURPOSE/INTENT

The intent of this Article is to protect and enhance the water quality of local receiving waters in a manner pursuant to and consistent with the Federal Clean Water Act and also to provide for the health, safety, and general welfare of the citizens of Kearney through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) according to locally approved standards as required by federal and state law. The objectives of this Article are:

- A. To regulate the contribution of pollutants to the MS4 by stormwater discharges from construction activity and development;
- B. To reduce pollutants in stormwater discharges from construction activity by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land;
- C. To require the construction of locally-approved, permanent stormwater runoff controls to protect water quality and maintain non-erosive hydrologic conditions downstream of construction activity and development;
- D. To require responsibility for and long-term maintenance of structural stormwater control facilities and nonstructural stormwater management; and
- E. To enable legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Article.

Section 11. That Section 9-1602 "Definitions" of Division I. "General Provisions" Article 16 "Construction and Post-Construction Storm Water Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1602 DEFINITIONS

For the purposes of this Article, the following words and phrases shall have the meaning set forth in this Section.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, and drainage from raw materials storage.

Builder: Shall mean the general contractor responsible for permitting and constructing a structure and associated construction activity.

Building Phase of Development: Period of construction activity when a portion(s) of a common plan of development or sale requires a building permit.

Clearing: Any activity that removes the vegetative surface cover.

Common Plan of Development or Sale: A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan which may include, but is not limited to, any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

Construction Activity: Such activities include but are not limited to clearing and grubbing, grading, excavating, demolition and other land disturbing actions.

Construction Site: Any location where construction activity occurs.

Contractor: Any person performing or managing construction work at a construction site, including, but not limited to, any construction manager, general contractor or subcontractor, and any person engaged in any one or more of the following: earthwork, pipe work, paving, building, plumbing, mechanical, electrical, landscaping or material supply.

Disturbed Area: Area of the lands surface disturbed by any work or activity upon the property by means including, but not limited to, grading; excavating; stockpiling soil, fill, or other materials; clearing; vegetation removal; removal or deposit of any rock, soil, or other materials; or other activities which expose soil. Disturbed area does not include the tillage of land that is zoned for agricultural use.

Drainage Design Guidance or Manual: Documentation that references design criteria and guidance by a community for stormwater management.

Earthwork: The disturbance of soil on a site associated with construction activities.

Eightieth (80th) Percentile Rain Event: A rainfall storm event equivalent to a depth of rainfall which is not exceeded in eighty (80) percent of the historic runoff producing rainfall events. The depth of rainfall to be used shall be that which is identified in the Post Construction Stormwater Management Plan (PCSMP). The depth of rainfall is used in hydrologic calculations to determine the water quality volume or rate of discharge to be controlled for.

Erosion: The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Erosion Control: Measures that prevent soil erosion to the maximum extent practicable.

Erosion and Sediment Control Plan: A plan that indicates the specific measures and sequencing to be used for controlling sediment and erosion on a development site during construction activity according to locally approved standards, specification, and guidance.

Final Drainage Plan: A plan that indicates the characteristics of the complete project. The plan will also indicate the future conditions post-construction BMPs will be maintained under.

Final Stabilization: When all soil disturbing activities at the site have been completed, and vegetative cover has been established with a uniform density of at least seventy (70) percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed. For purposes of this Article, establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site is considered final stabilization.

Grading: Excavation or fill of material, including the resulting conditions thereof.

Land Development: Any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

Land Disturbance Activity: Any land development that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or right-of-way

MS4 Boundary: This area is defined as the Urbanized Area map boundary prepared by the U.S. Census Bureau. This is the minimum boundary adopted by the EPA for Phase II communities as part of the MS4 program.

Municipal Separate Storm Sewer System (MS4): Publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by the EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b) i.e. Nebraska Department of Environmental Quality) that authorizes the discharge of pollutants to waters of the State.

Non-stormwater Discharge: Any discharge to the storm drain system that is not composed entirely of stormwater.

Operator: The individual who has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, the developer, the general contractor or the agent of one of these parties. It is anticipated that at different phases of a construction project, different types of parties will satisfy the definition of "operator" and the pertinent portions of any applicable permit authorization from the State of Nebraska will be transferred as the roles change.

Owner: The person who owns a facility, development, part of a facility, or land.

Person: Means any individual, association, organization, partnership, firm, corporation, cooperative, limited liability company or other entity recognized by law.

Phasing: Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; wastes and residues that result from mobile washing operations; and noxious or offensive matter of any kind.

Pollution: The presence in waters of the State of any substances, contaminants, pollutants, or manmade or man-induced impairment of waters or alteration of the chemical, physical, biological, or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.

Post-Construction: The general time period referenced in perpetuity from the approval for final acceptance of the construction phase of any construction activity.

Post-Construction Stormwater Management: The management of stormwater for a period of time in perpetuity from approval for final acceptance of the construction phase of any construction activity. The management of stormwater includes the use of STFs that meet minimum site performance standards in accordance with Kearney's MS4 Permit. STFs are intended to provide stormwater treatment during this time period and are considered functional after vegetation has been established.

Post-Construction Stormwater Management Plan: Documentation supporting analysis, design, maintenance and inspection of STFs installed on a site in order to meet minimum site performance standards in accordance with Kearney's MS4 Permit.

Post-Construction Stormwater Management Program: Municipality controlled program that stems from requirements in the MS4 Permit. This is the guiding document behind designs for the required STFs and Post-Construction Stormwater Management Plan for each site.

Premises: Any building, lot, parcel or tract of land, or portion thereof, whether improved, or unimproved, and including adjacent sidewalks and parking strips.

Receiving Water: Any water of the State of Nebraska, including any and all surface waters that are contained in or flow in or through the State of Nebraska, all watercourses, even if they are usually dry, irrigation ditches that receive municipal stormwater, and storm sewer systems owned by other entities.

Redevelopment: Any construction, alteration or improvement performed on a previously developed site.

Sediment: Soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person.

Sediment Control: Measures that prevent eroded sediment from leaving the site.

Seventieth (70th) Percentile Rain Event: A rainfall storm event equivalent to a depth of rainfall which is not exceeded in seventy (70) percent of the historic runoff producing rainfall events. The depth of rainfall to be used shall be that which is identified in the Post Construction Stormwater Management Plan (PCSMP). The depth of rainfall is used in hydrologic calculations to determine the water quality volume or rate of discharge to be controlled for.

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

Spill: A release of solid or liquid material, which may cause pollution of the MS4 or waters of the State.

Stabilization: The use of practices that prevent exposed soil from eroding.

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

Stormwater Pollution Prevention Plan (SWPPP): A document which describes the Best Management Practices and activities to be implemented by a person during the construction activities, which identifies sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters.

Stormwater Treatment Facilities (STFs): Permanent Best Management Practices (BMPs) put in place to provide control and treatment of stormwater runoff after construction for land development is complete. These facilities are physical in nature and sometimes referred to as "Structural" BMPs.

Subdivision Development: Includes activities associated with the platting of any parcel of land into two or more lots and all construction activity taking place thereon.

Utility Agency/Contractor: Private utility companies, public utility departments, or other utility providers contractors working for such private utility companies, or public entity utility departments, or other utility providers engaged in the construction or maintenance of utility lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse: A natural or artificial channel through which water can flow.

Waters of the State: Any and all surface and subsurface waters that are contained in or flow in or through the State of Nebraska. The definition includes all watercourses, even if they are usually dry.

Section 12. That Section 9-1603 “Liability” of Division I. “General Provisions” Article 16 “Construction and Post-Construction Storm Water Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1603 LIABILITY

The standards set forth herein and promulgated pursuant to this Article are minimum standards that shall apply to all construction activities which require an approval according to Section 9-1606 of this Article. Compliance with this Article does not act as a waiver or defense to any person for operating a construction site in a manner that allows or causes stormwater contamination, pollution, or unauthorized discharge of pollutants. The owner and operator of any approved construction activity shall be responsible for ensuring all activity; including the actions of all contractors, subcontractors, trade professionals, delivery personnel and others present at a construction site; are in compliance with all requirements of this Article. An owner shall be responsible for notifying the City when any transfer of ownership and liability under this Article occurs.

Section 13. That Section 9-1607 “Prohibitions” of Division I. “General Provisions” Article 16 “Construction and Post-Construction Storm Water Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1607 PROHIBITIONS

A. Except as provided in Article 15 entitled “City of Kearney Illicit Discharge Detection and Elimination Code” of Chapter 9 of the City Code, it is unlawful for any person to discharge non-stormwater into the City MS4.

B. It is unlawful for any person or representative at a construction site to cause or allow to be caused the impact, damage and/or removal of any approved stormwater pollution control measure without the owner’s knowledge and consent.

C. Stormwater discharges from construction activities shall not cause or threaten to cause pollution, contamination or degradation of waters of the State.

Section 14. That Section 9-1616 “General Requirements for Construction Activities” of Division II. “Construction” Article 16 “Construction and Post-Construction Storm Water Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1616 GENERAL REQUIREMENTS FOR CONSTRUCTION ACTIVITIES

A. Except for construction activity relating to the Building Phase of Development, the City shall require proof of coverage by a NDEQ general permit authorization for Stormwater Discharges from Construction Sites before providing approval for construction activity covered in Section 9-1606 of this Article.

B. A pre-construction meeting shall be scheduled with an appointed official with the City to review the installation of all temporary erosion and sediment control BMPs included on the approved erosion and sediment control plan at least two (2) business days before any construction activities are scheduled to start.

C. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of BMPs. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash or otherwise be released from the site is prohibited. Sanitary waste facilities shall be provided and maintained in a secured manner.

D. Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing such materials or used in transporting or applying ready-mixed concrete, shall not be allowed to discharge from any construction site.

E. Cover or perimeter control shall be applied within fourteen (14) days to any soil stockpiles, which will remain undisturbed for longer than thirty (30) calendar days.

F. Disturbed soil shall be managed with BMPs that are adequately designed, installed, and maintained according to locally-approved technical standards, specifications and guidance for the duration of the construction activity to minimize erosion and contain sediment within the construction limits.

G. Sediment tracked or discharged onto public right-of-way shall be removed immediately.

H. Bulk storage structures for petroleum products and other chemicals shall have adequate protection to contain all spills and prevent any spilled material from entering the MS4 or waters of the State.

I. Temporary BMPs shall be removed and disturbed areas shall be stabilized with permanent BMPs at the conclusion of all approved construction activity.

Section 15. That Section 9-1618 "Construction Storm Water Pollution Prevention Plan (SWPPP)" of Division II. "Construction" Article 16 "Construction and Post-Construction Storm Water Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1618 CONSTRUCTION STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A. A SWPPP shall be prepared and updated in accordance with locally-approved technical standards, specification, and guidance for construction activity within the City and shall include an erosion and sediment control plan for land disturbance.

B. The SWPPP shall include a description of all potential pollution sources, temporary and permanent BMPs that will be implemented at the site as approved by the City.

C. The erosion and sediment control plan shall be submitted to the City for review with any application covered in Section 9-1606 of this Article.

D. Land disturbing activities may not proceed until approval of the erosion and sediment control plan is provided by the City.

E. The owner or operator is required to have a copy of the SWPPP readily available for review with content that reflects the current condition of the construction activity and all records that demonstrate compliance and are required by this Article.

F. The SWPPP shall include a description of routine site inspections.

(1) The owner or their representative shall inspect all BMPs at intervals of no greater than fourteen (14) calendar days and within twenty-four (24) hours after any precipitation event of at least one half (1/2) inch.

(2) Inspections of BMPs shall be conducted by an individual who person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any erosion and sediment control measures selected to control the quality of stormwater discharges from the construction activity.

(3) Inspection reports shall provide the name and qualification of the inspector, date of the evaluation, risks to stormwater quality identified, and all corrective actions necessary to prevent stormwater pollution.

(4) The owner or operator of a construction activity may be requested to submit copies of inspection reports for review on a periodic basis by the City.

G. Based on inspections performed by the owner, operator, authorized City personnel, State or Federal regulators modifications to the SWPPP will be necessary if at any time the specified BMPs do not meet the objectives of this Article. In this case, the owner shall meet with an appointed official of the City to determine the appropriate modifications. All required modifications shall be completed within seven (7) calendar days of receiving notice of inspection findings, and shall be recorded in the SWPPP.

H. The owner or operator of a construction site shall be responsible for amending the SWPPP whenever there is a significant change in design, construction, operation, or maintenance, which has a significant effect on the potential for discharge of pollutants to the MS4 or receiving waters, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with land disturbance.

I. Records of inspection are to be maintained with the SWPPP for the life of the project. Inspection records are to be available to City inspectors upon request. Delay in providing a copy of the SWPPP or any requested records shall constitute a violation of this Article.

Section 16. That Section 9-1626 “Post–Construction Requirement of Permanent BMPs” of Division III. “Post-Construction” Article 16 “Construction and Post-Construction Storm Water Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1626 POST–CONSTRUCTION REQUIREMENT OF PERMANENT BMPs

A. Land development that meets the requirements of Section 9-1606 of this Article must address stormwater runoff quality through the use of permanent BMPs. Permanent BMPs shall be provided for in the drainage plan for any subdivision plat, annexation plat, development agreement, subdivision agreement or other local development plan.

B. Structural BMPs located on private property shall be owned and operated by the owner(s) of the property on which the STF is located; unless the City agrees in writing that a person or entity other than the owner shall own or operate such STF. As a condition of approval of the STF, the owner shall also agree to maintain the STF in perpetuity to its design capacity unless or until the City shall relieve the property owner of that responsibility in writing. The obligation to maintain the STF shall be memorialized on the subdivision plat, annexation plat, development agreement, subdivision agreement or other form acceptable to the City and shall be recorded with the City of Kearney Public Works Department.

Section 17. That Section 9-1627 “Certification of Permanent BMPs” of Division III. “Post-Construction” Article 16 “Construction and Post-Construction Storm Water Code” of Chapter 9 “Public Works” of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1627 CERTIFICATION OF PERMANENT BMPs

Upon completion of a project, and before a Certificate of Occupancy shall be granted, the City shall be provided a written certification stating that the completed project is in compliance with the approved Final Drainage Plan. All applicants are required to submit "as built" plans for any permanent BMPs once final construction is completed and must be certified by a professional engineer licensed in the State of Nebraska. A final inspection by the City, or City appointed personnel, of all post-construction STFs shall be required before a Certificate of Occupancy will be issued or any public infrastructure is accepted.

Section 18. That Section 9-1628 "Ongoing Inspection and Maintenance of Permanent BMPs" of Division III. "Post-Construction" Article 16 "Construction and Post-Construction Storm Water Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1628 ONGOING INSPECTION AND MAINTENANCE OF PERMANENT BMPs

A. The owner of site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the City, execute an inspection and maintenance agreement, that shall be binding on all subsequent owners of the permanent BMPs.

B. Permanent BMPs included in a Final Drainage Plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and to ensure compliance with the requirements of the agreement, the plan and this Article.

Section 19. The Code of the City of Kearney, Nebraska, is hereby amended by adding a new section to Division III. "Post-Construction" Article 16 "Construction and Post-Construction Storm Water Code" of Chapter 9 "Public Works" which reads as follows:

9-1629 TIMELINE FOR POST-CONSTRUCTION CRITERIA IMPLEMENTATION

Implementation for the following timeline will be after August 31, 2017:

A. Proposed Redevelopment: (Applies to lands which have been platted and previously built upon) Stormwater Treatment Facilities must be accounted for on any proposed redevelopment project if it has not already submitted a complete preliminary plat or building permit for approval. Proposed redevelopment projects that are exempt from treatment are those that have already submitted a complete plat, preliminary plat or building permit for approval. Any non-exempt projects must account for a seventieth (70th) Percentile Rain Event.

B. Proposed New Development: (Applies to lands which are being platted for development or have been platted but have not previously been built upon) Stormwater Treatment Facilities must be accounted for on any proposed new development project that has not already submitted a complete preliminary plat or building permit for approval. Proposed new development projects that are exempt from treatment are those that have already submitted a complete final plat, preliminary plat or building permit for approval. Any non-exempt projects must account for an eightieth (80th) Percentile Rain Event.

Section 20. That Section 9-1633 "Technical Standards, Specifications, and Guidance" of Division IV. "Technical Standards, Submissions, Inspection and Monitoring" Article 16 "Construction and Post-Construction Storm Water Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1633 TECHNICAL STANDARDS, SPECIFICATIONS, AND GUIDANCE

All BMPs designed to meet the requirements of this Article shall reference the appropriate technical standards, specifications and guidance as follows:

- A. City Standards and Specifications for Construction.
- B. Nebraska Department of Roads Drainage Design and Erosion Control Standards, Specifications and Guidance.
- C. Any other alternative methodology approved by the City of Kearney Engineering Department, which is demonstrated to be effective.
- D. Further description of the Post-Construction Stormwater Management Program is on file with the City of Kearney Public Works Department.

Section 21. That Section 9-1643 "Violations, Enforcement and Penalties" of Division V. "Enforcement" Article 16 "Construction and Post-Construction Storm Water Code" of Chapter 9 "Public Works" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

9-1643 VIOLATIONS, ENFORCEMENT AND PENALTIES

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who violates any of the provisions of this Article, shall be subject to one or more of the enforcement actions outlined in this Section. Any violation or threatened violation may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City representative is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City is authorized to seek costs of abatement as outlined below in Section 9-1643 F of this Article.

A. Compliance Directive. In addition to any other remedy available to the City, City inspectors may issue compliance directives at the time of inspection to require a person to implement actions that will correct any violation of this Article.

B. Notice of Violation. Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

If abatement of a violation or the restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to complete the remediation or restoration within the established deadline, the work may be done by the authorized enforcement agency or its designee and the expense thereof shall be charged to the violator.

C. Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or its designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

D. Enforcement Measures after Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency and its designees are authorized to enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated agent to enter upon the premises for the purposes set forth above.

E. Stop Work Order.

Whenever the City determines that any activity is occurring which is not in compliance with the requirements of this Article, the City may order such activity stopped upon service of written notice upon the owner and/or operator responsible for or conducting such activity. Such owner and/or operator shall immediately stop all activity until authorized in writing by the City to proceed. If the appropriate owner and/or operator cannot be located, the notice to stop shall be posted in a conspicuous place upon the area where the activity is occurring. The notice shall state the nature of the violation. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the City. It shall be unlawful for any owner and/or operator to fail to comply with a stop work order.

F. Cost of Abatement of the Violation.

If the authorized enforcement agency abates a violation, then within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. Such notice shall be given by personal delivery or by mail to the last known address of the owner as shown in the records of the County Assessor. Such notice shall be effective upon the date of mailing or personal delivery. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days of the effective date of the notice. If no protest is filed, then the charges shall become due and payable on the date set forth in the notice, which date shall be after the expiration of the time in which to file an appeal, and such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. In the event a protest is filed, a hearing on such protest shall be held before the appropriate authority or its designee within fifteen (15) days from the date of receipt of the written protest. If any charges are upheld upon completion of such hearing, then such charges shall become due and payable ten (10) days after the issuance of the order upon such protest and if not timely paid, such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Such charges may also be recovered in a civil action against the owner or other person in control of the premises for which such charges were incurred, and any person violating any of the provisions of this Article shall be liable to the City for all costs, fees, charges and expenses, including but not limited to administrative costs and legal fees and costs, by reason of such violation.

G. Civil Penalties.

In the event the alleged violator fails to take the remedial measures set forth in the Notice of Violation or otherwise fails to cure the violations described therein within ten (10) days after the City has taken the actions described above, the City may impose a penalty not to exceed one thousand dollars (\$1,000), depending on the severity of the violation, for each day the violation remains unremedied after the receipt of the Notice of Violation.

H. Criminal Penalties; Enforcement Costs.

Any person who violates any provision of this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of up to one thousand dollars (\$1,000) per violation per day and/or imprisonment for a period of time not to exceed one (1) year.

The City may recover all attorneys' fees court costs and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

I. Injunctive Relief.

The authorized enforcement agency may petition for a preliminary or permanent injunction restraining any person from undertaking any activities which would result in a violation or continued violation of this Article, and may seek mandatory injunctive relief compelling the person to perform abatement or remediation of any violation of this Article.

J. Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the

violator's expense, or may be subject of a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.

K. Remedies Not Exclusive.

Except as expressly provided above, the remedies in this Section are cumulative and the exercise of any one (1) or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this Article. The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Section 22. That Section 10-203.1 "Sewers; New Inflow Sources Prohibited" of Article 2 "Sewers" of Chapter 10 "Utilities" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

10-203.1 SEWERS; NEW INFLOW SOURCES PROHIBITED

A. No person shall make connections of roof downspouts, interior and exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

B. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

C. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City Utilities Department. Industrial cooling water or unpolluted process waters may be discharged on approval of the City Utilities Department to a storm sewer, combined sewer or natural outlet.

Section 23. That Section 10-405 "Where Protection is Required" of Division III. "Regulations" Article 4 "Backflow Prevention" of Chapter 10 "Utilities" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

10-405 WHERE PROTECTION IS REQUIRED

(1) An approved backflow prevention device shall be installed between the service connection and the point of potential backflow into a consumer's water supply system when in the judgment of the Director a health, plumbing, pollution or system hazard exists or has the potential to exist in the future.

(2) An approved backflow prevention device shall be installed when the following conditions are found by the Director to exist:

(a) Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to a public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from a public water supply system which are no longer under the sanitary control of the owner;

(b) Premises having internal cross-connections that, in the judgment of the Director, are not correctable, or there exist intricate plumbing arrangements which made it impracticable to determine whether or not cross-connections exist.

(c) Premises having a repeated history of cross-connections being established or re-established;

(d) Premises having more than one customer service connection which could constitute a potential cross-connection.

(3) An approved backflow prevention device shall be installed on each service line to a customer's water supply system serving the following types of facilities unless the Director determines that no health, pollution, or system hazard to the public water supply system exists:

(a) Hospitals, mortuaries, dental clinics, nursing and convalescent homes, medical buildings;

(b) Testing laboratories, film laboratories, film development facilities;

(c) Sewage treatment plants, sewage pumping stations, or stormwater pumping stations;

(d) Food or beverage processing plants;

- (e) Chemical plants;
- (f) Metal de-greasing, plating industries, machine tool plants, dye and metal processing or productions;
- (g) Chemical and petroleum processing or storage plants;
- (h) Car washes, automobile servicing facilities;
- (i) Lawn irrigation systems, swimming pools and greenhouses;
- (j) Laundries and dry cleaners;
- (k) Packing houses;
- (l) Power plants;
- (m) Premises having radioactive materials such as laboratories, industries, hospitals;
- (n) Rendering plants;
- (o) Premises having water recirculating systems as used for boilers or cooling systems;
- (p) Veterinary establishments, kennels, feedyards, stables, rodeo grounds, stockyards, pet grooming, salons;
- (q) Beauty salons, barbershops, massage parlors, health clubs;
- (r) Fire suppression systems;
- (s) Multi-storied buildings greater than three (3) stories in height;
- (t) Schools, universities, colleges;
- (u) Other commercial or industrial facilities which may constitute potential cross-connection.

Section 24. That Section 10-501 "Creation of Storm Water Utility" of Article 5 "Storm Water Utility" of Chapter 10 "Utilities" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

10-501 CREATION OF STORMWATER UTILITY

The City of Kearney, does hereby establish a Stormwater Utility, the purpose of which is to assist the City of Kearney in its responsibility for the operation, construction, maintenance and repair of stormwater drainage system facilities to provide adequate systems of collection, conveyance, detention, treatment and release of stormwater and the reduction of potential hazards to property and life resulting from stormwater runoff, improvement in general health and welfare through reduction of undesirable stormwater conditions and improvements to the water quality in the storm and surface water system and its receiving waters.

Section 25. That Section 10-502 "Program Responsibility" of Article 5 "Storm Water Utility" of Chapter 10 "Utilities" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

10-502 PROGRAM RESPONSIBILITY

The City of Kearney shall be empowered to administer the Stormwater Utility and may delegate such duty and responsibility as is necessary to carry out the provisions of this Ordinance within the limits of the budget, directives and storm drainage regulations adopted by the governing body of the City of Kearney for this Utility.

Section 26. That Section 10-503 "Operating Budget" of Article 5 "Storm Water Utility" of Chapter 10 "Utilities" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

10-503 OPERATING BUDGET

The City of Kearney shall adopt an operating budget for each fiscal year. The operating budget shall set forth, for each fiscal year, the estimated revenues and the estimated costs for the Stormwater Utility. The

initial operating budget shall be for the fiscal year commencing on October 1, 2017.

Section 27. That Section 10-504 "Surcharge Fee Schedule Established" of Article 5 "Storm Water Utility" of Chapter 10 "Utilities" of the Code of the City of Kearney, Nebraska, is hereby amended to read as follows:

10-504 SURCHARGE FEE SCHEDULE ESTABLISHED

A. There is hereby assessed against all property within the City that is connected to either water or sanitary sewer systems, or both, of the City a monthly stormwater utility surcharge fee. Such surcharge fee is based upon a determination of the use for each property. The owner, occupant and any person who is responsible for the payment of water and/or sewer service to the property, shall all be jointly and severally responsible for the payment of said surcharge fee. Persons responsible for the payment of water and/or sewer service to the property shall include the person responsible for payment for water provided to a master meter that is then distributed to multiple users, whether or not said users are located on the same property as the master meter. The surcharge fee shall be:

1. All property devoted to a residential use shall be assessed a monthly surcharge fee as set forth in the City of Kearney's Comprehensive Fee Schedule. The term "residential" shall include single-family homes, mobile homes and mobile home parks, duplexes and apartment units. The term "residential" shall not include rooming or boarding houses, dormitories and similar facilities. The term "living unit" shall mean one or more rooms in a residential building which are arranged, designed, used or intended for use by one (1) family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

2. Property devoted to any use other than residential, as set forth above shall be assessed a monthly surcharge fee as set forth in the City of Kearney's Comprehensive Fee Schedule.

Section 28. Any person, partnership, firm or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Section 1-111 of this Code. Each distinct act or violation of the terms of this Ordinance shall constitute a separate offense.

Section 29. It is the intention of the City Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Kearney, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 30. That all ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed.

Section 31. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of Kearney hereby declare that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 32. This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law and shall be published in pamphlet form by authority of the City Council.

INTRODUCED BY COUNCIL MEMBER Buschkoetter
PASSED AND APPROVED THIS 14TH DAY OF MARCH, 2017.

ATTEST:

Michaelle E. Trembly
MICHAELLE E. TREMBLY
CITY CLERK

Stanley A. Clouse
STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

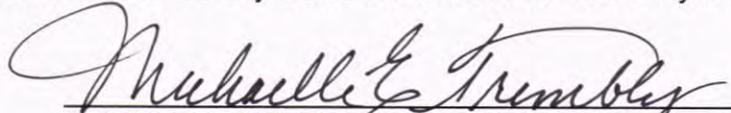


CERTIFICATE

STATE OF NEBRASKA)
COUNTY OF BUFFALO) ss
CITY OF KEARNEY)

I, Michaele E. Trembly, City Clerk of the City of Kearney, Buffalo County, Nebraska, hereby certify that the attached is a true and correct copy of Ordinance No. 8131 amending several sections of Chapter 9 "Public Works" and Chapter 10 "Utilities" of the City Code to change the reference of storm water to stormwater, including definitions for involving the Post-Construction Stormwater Management Program, adding reference to the Post-Construction Stormwater Management Program for aid in standards/technical issues/design manuals, and replacing certain references of Best Management Practices (BMP) as it pertains to Post-Construction with Stormwater Treatment Facility (STF); which was passed and approved by the President and City Council on the 14th day of March, 2017 and ordered published in pamphlet form by the authority of the Council on March 15, 2017, with copies being made available to the public on such date at the Office of the City Clerk, the Police Department and the Public Library.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal this 15th day of March, 2017.


MICHAELLE E. TREMBLY, CITY CLERK

