

MCM #4

Construction Stormwater

Operations Guide

Stormwater Management Plan

For The City of Kearney

November 2017

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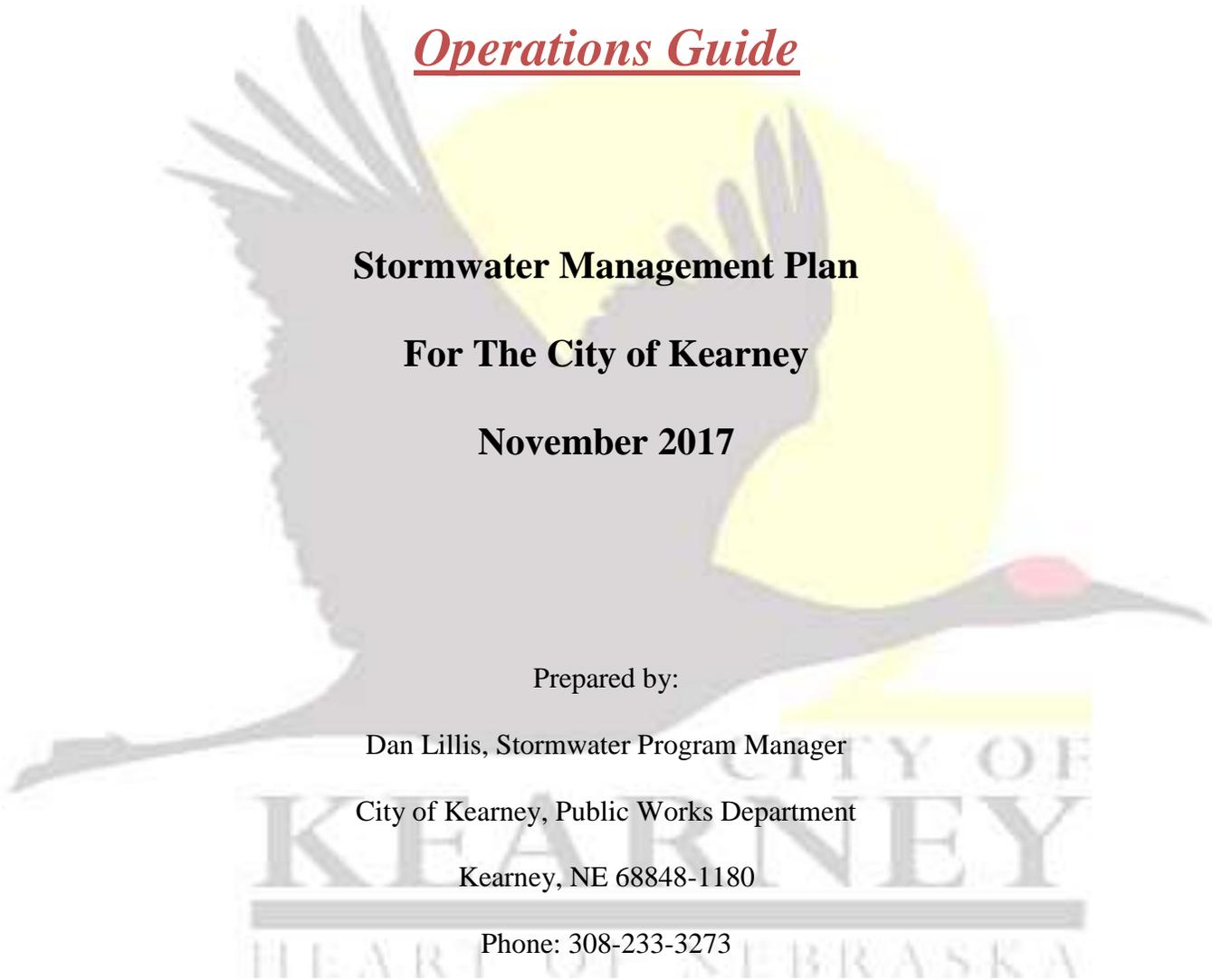
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Construction Stormwater Operations Guide

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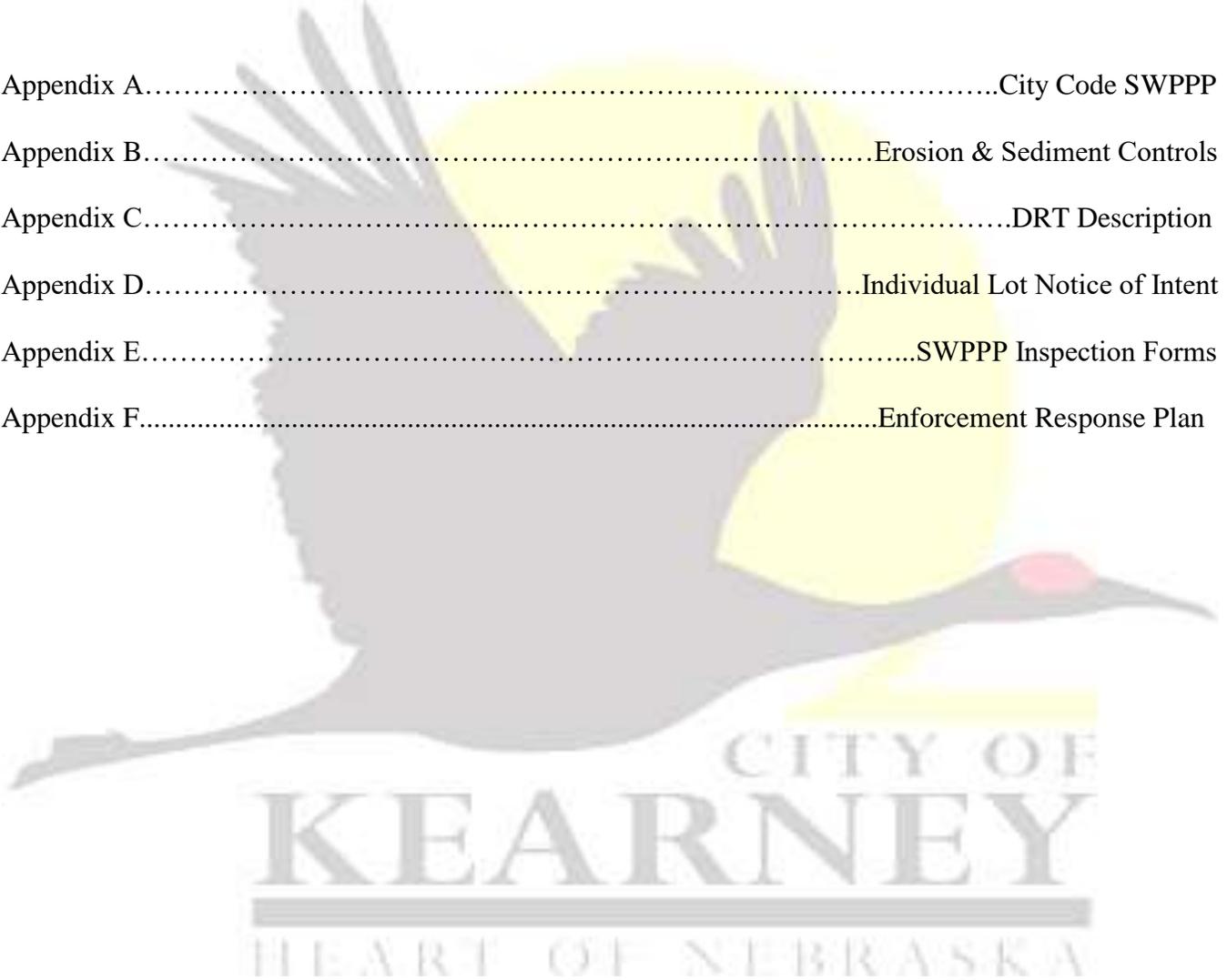
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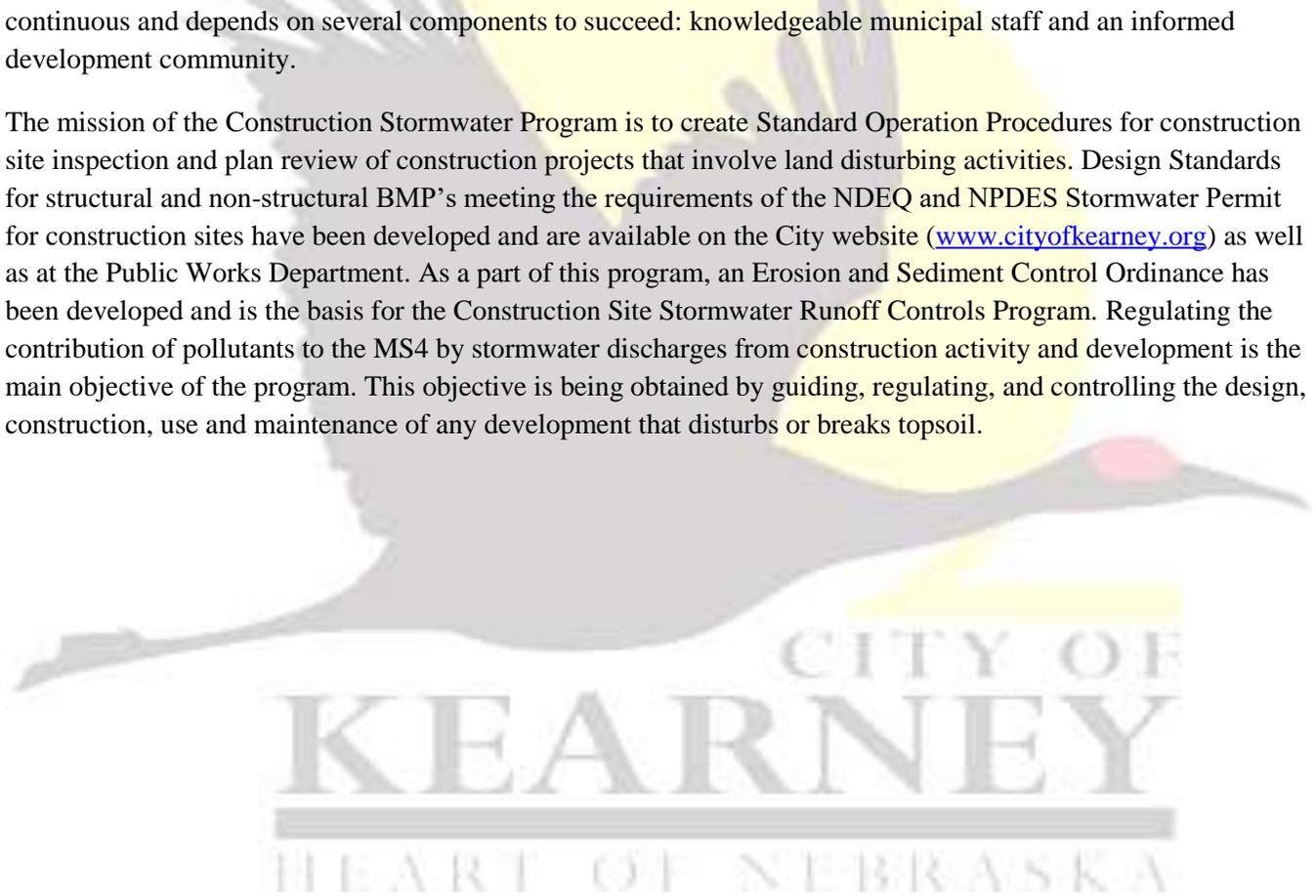
1. Overview



1.a. Mission and Goals of the Construction Stormwater Program

The goal of the Construction Stormwater Program is to reduce the amount of pollutants in stormwater runoff from construction activities that result in land disturbance and inform the development community of implementable methods to aid in this goal. The City of Kearney hopes to continually educate the development community about the importance of reducing pollutants in stormwater runoff from construction activities. This education comes in several forms, from having the material available upon request to having an established training and education process. Educational materials for educating contractors and members of the development community have been created and purchased. Involving members of the development community and contractors along with engineering consultants in the development of this program is a high priority. The development of this program is continuous and depends on several components to succeed: knowledgeable municipal staff and an informed development community.

The mission of the Construction Stormwater Program is to create Standard Operation Procedures for construction site inspection and plan review of construction projects that involve land disturbing activities. Design Standards for structural and non-structural BMP's meeting the requirements of the NDEQ and NPDES Stormwater Permit for construction sites have been developed and are available on the City website (www.cityofkearney.org) as well as at the Public Works Department. As a part of this program, an Erosion and Sediment Control Ordinance has been developed and is the basis for the Construction Site Stormwater Runoff Controls Program. Regulating the contribution of pollutants to the MS4 by stormwater discharges from construction activity and development is the main objective of the program. This objective is being obtained by guiding, regulating, and controlling the design, construction, use and maintenance of any development that disturbs or breaks topsoil.

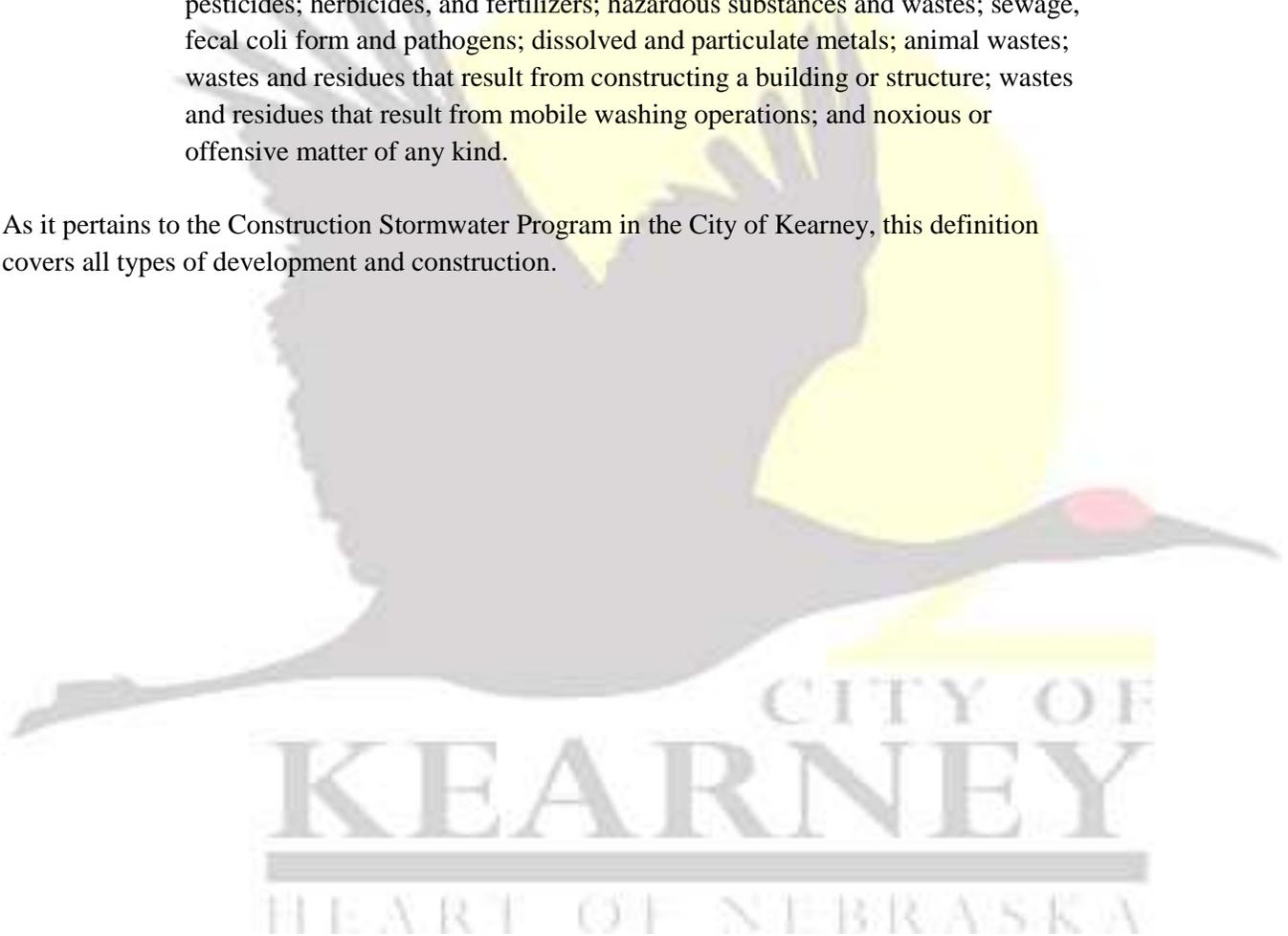


1.b. Target Pollutants of Concern

The City of Kearney has clearly defined the term ‘Pollutant’ multiple times in City Code. As it relates to Construction Stormwater, the definition is unchanged. Chapter 9, Article 16, 9-1602 defines “Pollutant,”

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.

As it pertains to the Construction Stormwater Program in the City of Kearney, this definition covers all types of development and construction.



2.a. Erosion and Sediment Control Authority

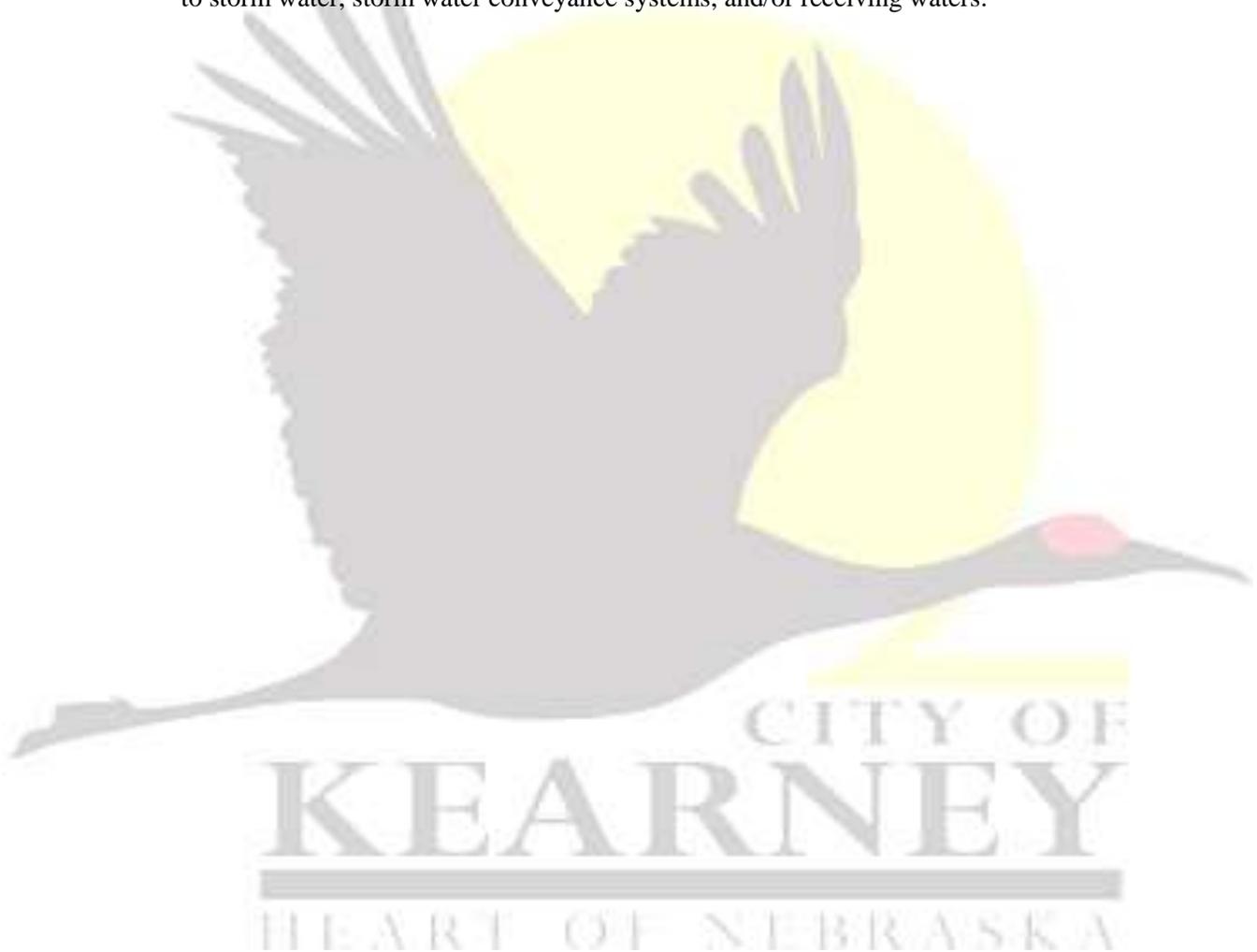
The City of Kearney has created Ordinance Number 7573, on 2-23-2010, that states “The City shall designate appointed personnel with authority to conduct inspection, issues notices of violations and implement other enforcement actions under this Article as provided by the City.” (Chapter 9-1635).



3. Stormwater Pollution Prevention Plan (SWPPP) Review

The City of Kearney clearly defines the term ‘Stormwater Pollution Prevention Plan’ in Chapter 9, Article 16 of our City Code.

“Storm Water 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 storm water, storm water conveyance systems, and/or receiving waters.”



3.a. Essential Staff

City Manager

Assistant City Manager/Development Services Director

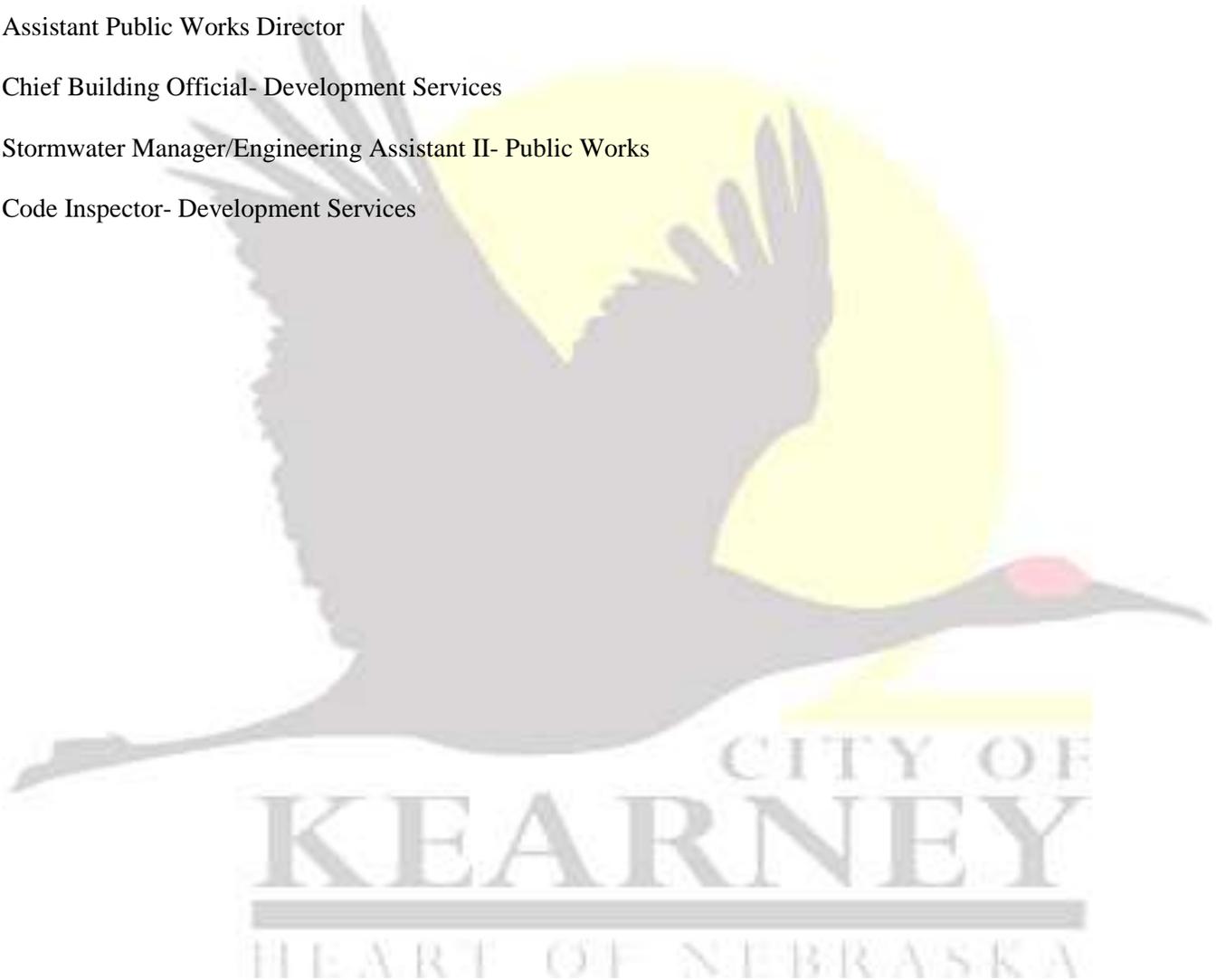
Public Works Director

Assistant Public Works Director

Chief Building Official- Development Services

Stormwater Manager/Engineering Assistant II- Public Works

Code Inspector- Development Services



3.b. Design Guidance

The City of Kearney Municipal Code describes the SWPPP process in great detail in Chapter 9, Article 16, “Construction Storm Water Pollution Prevention Plan (SWPPP).” This ordinance can be found as [Appendix A](#). In this ordinance the acceptable process and method of implementing the SWPPP for a project are identified.

- i. Erosion Controls
- ii. Sediment Controls
- iii. Waste/Good Housekeeping
- iv. Post-Construction/Stormwater Conveyance



3.b.i. Erosion Controls

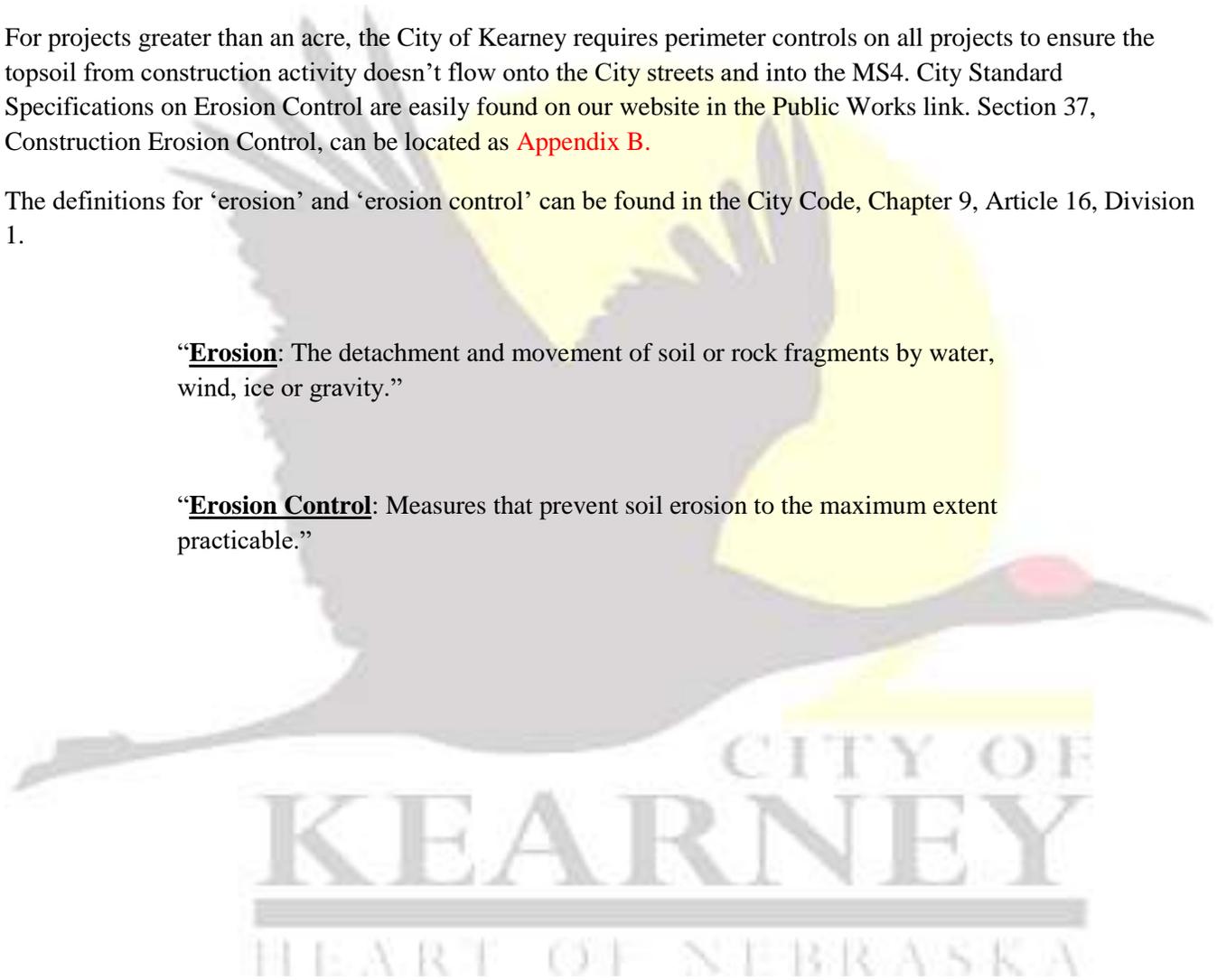
The City of Kearney Development Services and Public Works Departments are responsible for aiding and informing the development community about erosion controls on any size of project, from home construction (less than an acre) to subdivision development (greater than an acre). Erosion control design of both sizes can be found with the City. Brochures on perimeter controls can be found at development services when applying for a building permit and there is at least one required inspection to verify that the erosion control plan is in place for projects less than an acre.

For projects greater than an acre, the City of Kearney requires perimeter controls on all projects to ensure the topsoil from construction activity doesn't flow onto the City streets and into the MS4. City Standard Specifications on Erosion Control are easily found on our website in the Public Works link. Section 37, Construction Erosion Control, can be located as [Appendix B](#).

The definitions for 'erosion' and 'erosion control' can be found in the City Code, Chapter 9, Article 16, Division 1.

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.”



3.b.ii. Sediment Controls

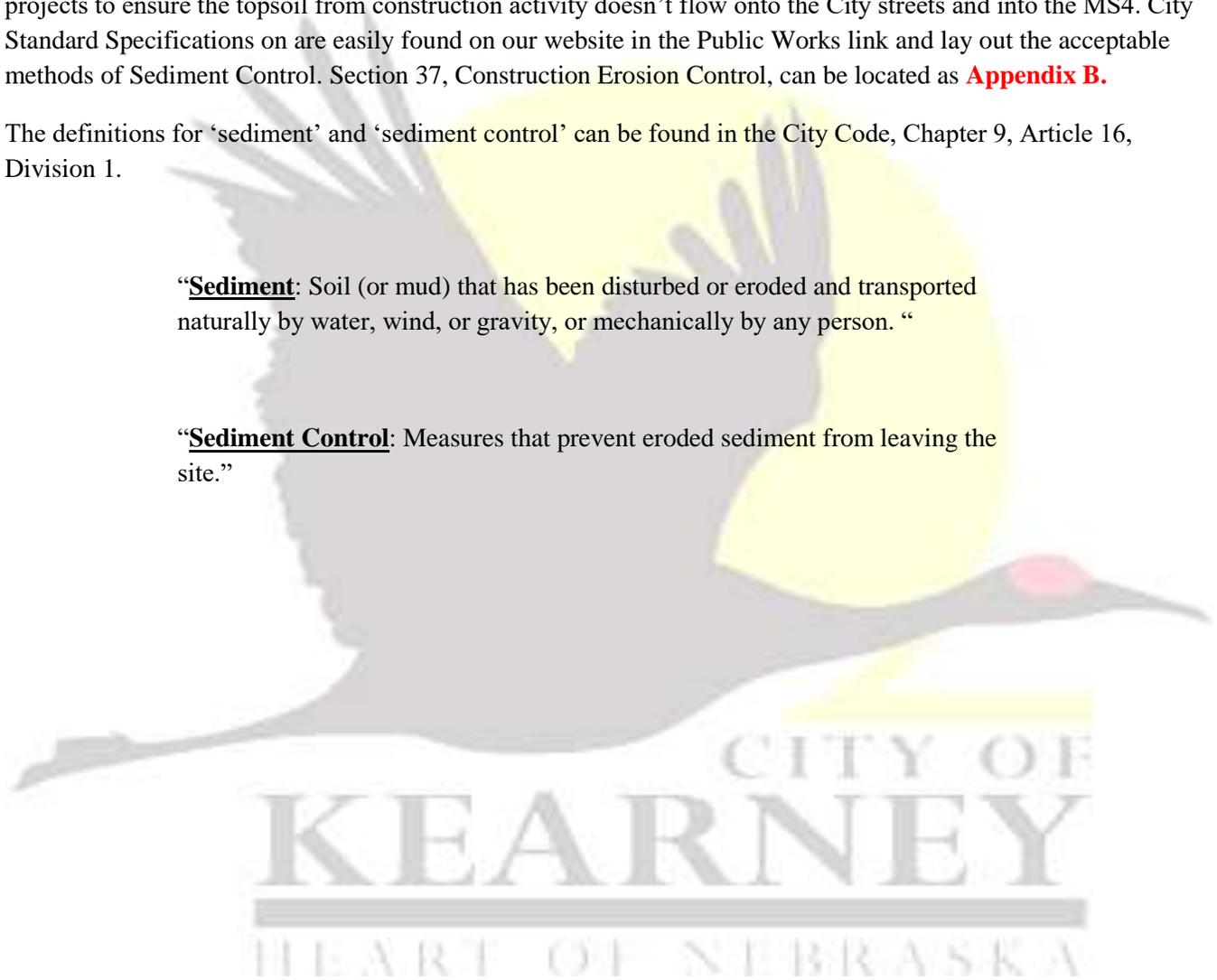
The City of Kearney Development Services and Public Works Departments are responsible for aiding and informing the development community about sediment controls on any size of project, from home construction (less than an acre) to subdivision development (greater than an acre). Sediment control design of both sizes can be found with the City. Brochures on sediment control BMP's can be found at development services when applying for a building permit.

For projects greater than an acre, the City of Kearney has sediment control designs and reference material for projects to ensure the topsoil from construction activity doesn't flow onto the City streets and into the MS4. City Standard Specifications on are easily found on our website in the Public Works link and lay out the acceptable methods of Sediment Control. Section 37, Construction Erosion Control, can be located as **Appendix B**.

The definitions for 'sediment' and 'sediment control' can be found in the City Code, Chapter 9, Article 16, Division 1.

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.”



3.b.iii. Waste/Good Housekeeping Practices

The City of Kearney implements, and has available to the development community, Standard Specifications regarding Waste Disposal and other Good Housekeeping Practices. These Standard Specifications can be found in [Appendix B](#), starting at 37.37. Concrete Washout, Entrance/Exit Maintenance, Erosion Control Maintenance, General BMP Maintenance, Spill Prevention Control Practices...etc are identified and described in this documents [Appendix B](#).



3.b.iv. Post-Construction/Stormwater Conveyance

The City of Kearney has a timeline implemented that addresses a Post-Construction Stormwater Maintenance Plan (PCSMP) and its many attributes. The PCSMP is located in the Stormwater Management Plan (SWMP) as MCM #5. Section 3 of the PCSMP is devoted to Platting and Site Plan Review. Stormwater Treatment Facilities (STFs) must be accounted for in any development that is platted after September 1st, 2017. This is an agreed upon timeline with the EPA through the Audit and Consent process.

The City of Kearney has provided reference to design manuals for the desired STFs, taken from the selection of Regional Facilities, Rain Gardens, Sediment Forebays, and Bio-Swales, amongst others. Included in the PCSMP is a 'Submittal Checklist' that requires proper identification of STFs on the plans, along with calculations, agreements, and certifications of STFs.



3.c. Design Review

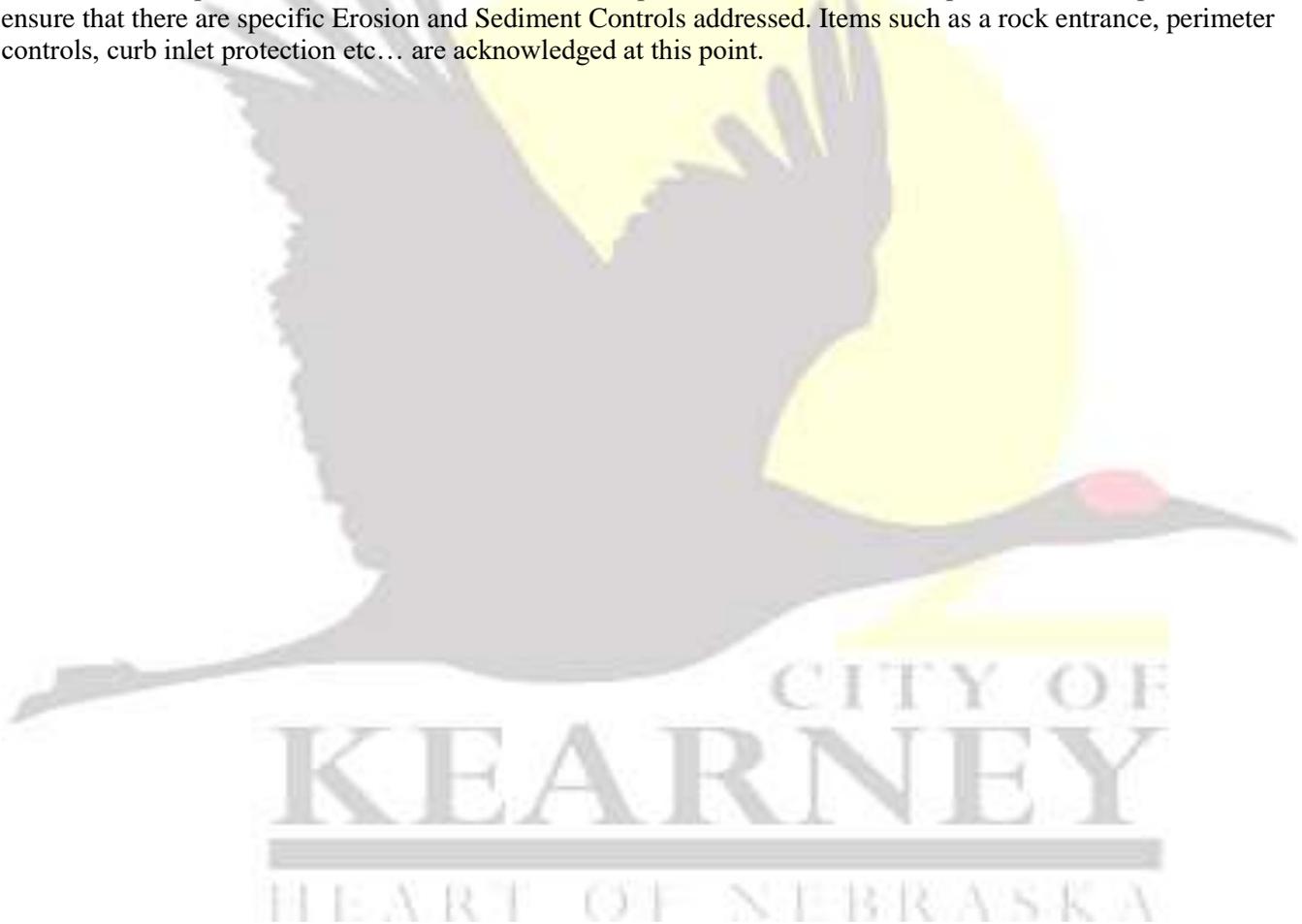
- i. Land Disturbance over 1 acre
- ii. Land Disturbance under 1 acre
- iii. Flowchart/Decision Tree



3.c.i. Land Disturbance Over 1 Acre

In the City of Kearney Municipal Code it requires that 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.” (City Ordinance No. 7573, 2-23-2010.) The ordinance also states that “Land disturbing activities may not proceed until approval of the erosion and sediment control plan is provided by the City...These provisions apply to all portions of any common plan of development or sale which would cause the disturbance of at least on acre of soil...” [Appendix A](#).

The opportunity for developers to present their project designs to the City of Kearney begins with the ‘Development Review Team’ (DRT) which meets weekly at City Hall. Following this process there is another opportunity to ensure the required standards and specifications of the Public Works Department- this is the ‘Plan Review.’ At this point members of the Public Works Department review the developer/landowner’s plans to ensure that there are specific Erosion and Sediment Controls addressed. Items such as a rock entrance, perimeter controls, curb inlet protection etc... are acknowledged at this point.



3.c.i.1. Development Review Team

a. Description of Team and Task



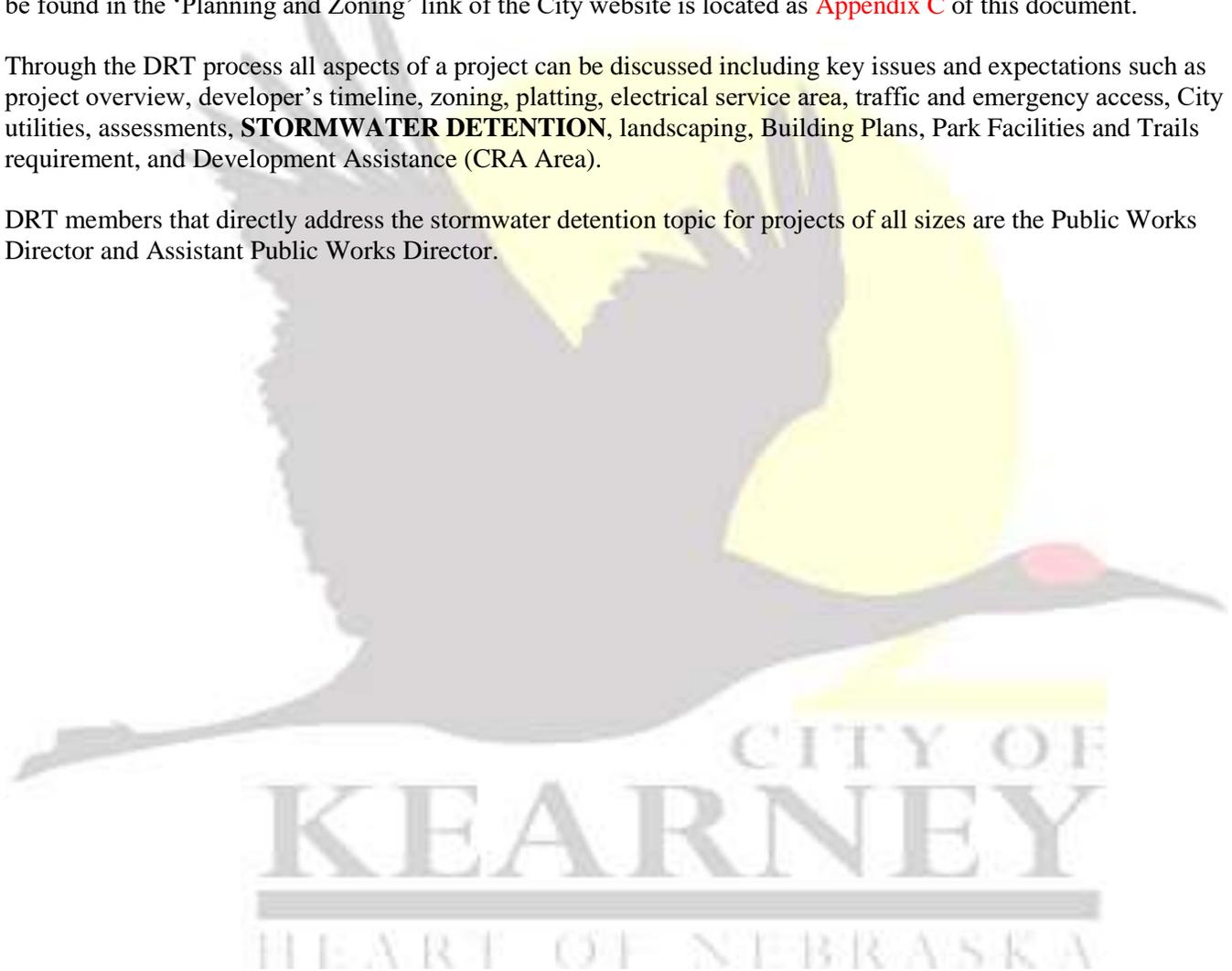
3.c.i.1.a. Development Review Team and Task

The City of Kearney utilizes a ‘Development Review Team’ in its development process. The Development Review Team (DRT) meets weekly to review upcoming active projects with developers, owners, and owners’ design representatives. Members of DRT include the City Planner, Chief Building Official, **Public Works Director, Assistant Public Works Director**, Utilities Director, Assistant Utilities Director, Fire Administrator, Development Coordinator, and NPPD Liaison.

Attendees present an overview, location, and any concern of their project. A description of the DRT process can be found in the ‘Planning and Zoning’ link of the City website is located as **Appendix C** of this document.

Through the DRT process all aspects of a project can be discussed including key issues and expectations such as project overview, developer’s timeline, zoning, platting, electrical service area, traffic and emergency access, City utilities, assessments, **STORMWATER DETENTION**, landscaping, Building Plans, Park Facilities and Trails requirement, and Development Assistance (CRA Area).

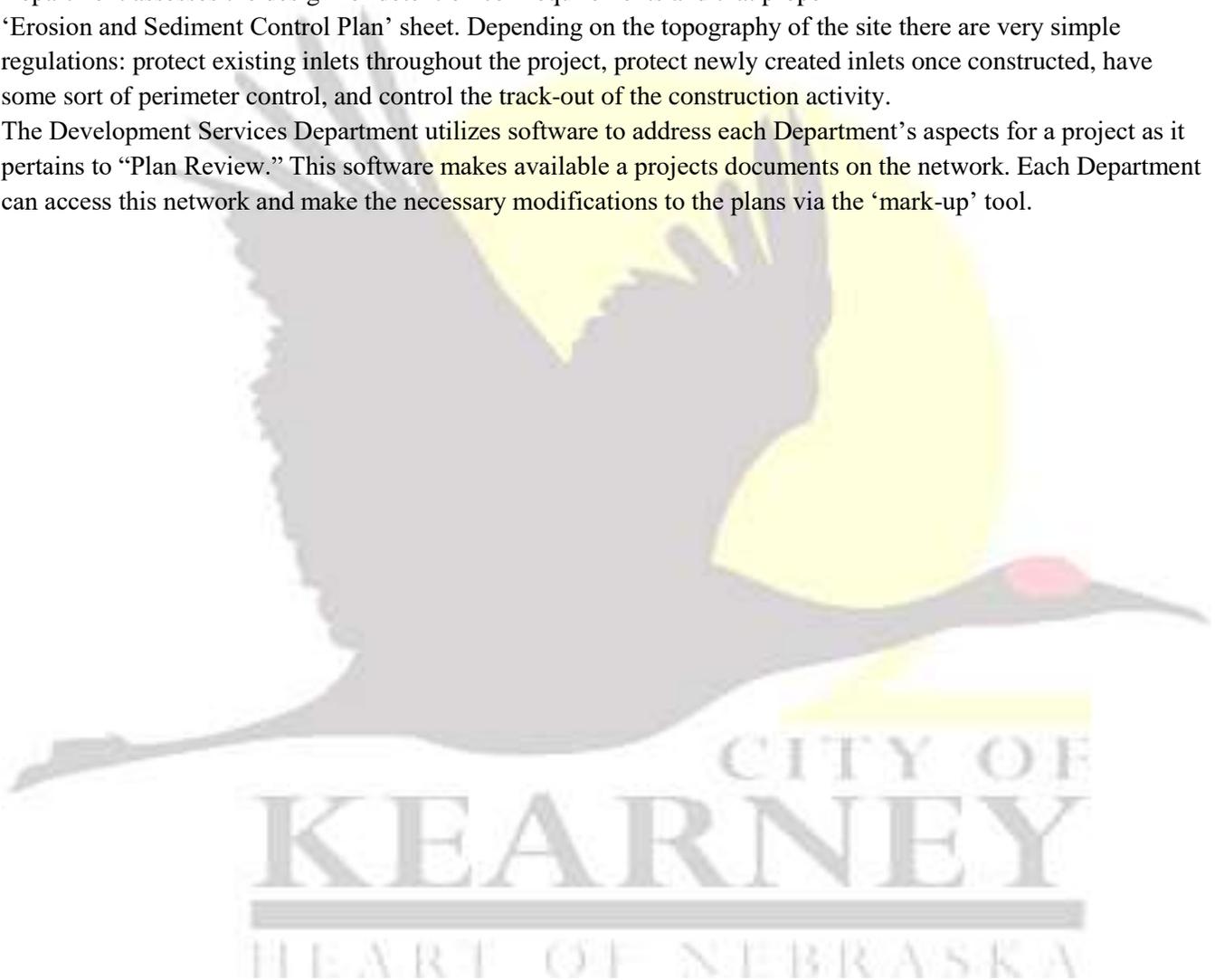
DRT members that directly address the stormwater detention topic for projects of all sizes are the Public Works Director and Assistant Public Works Director.



3.c.i.2. Approval Notifications Process

The City of Kearney implements a 'Plan Review' process for inspecting if 'Erosion and Sediment Control Plan' sheets contain the proper Best Management Practices. When a developer follows through with their project, once a plan has gone through DRT then they proceed with the design and bring it forth through each department (Public Works, Utilities, Park and Recreation, Development Services, Electrical supplier) to ensure that each of their respective aspects of the project are accounted for. This is another opportunity for more feedback, to ensure the developer complies with required objectives of each department. It is at this process that the Public Works Department assesses the design for detention cell requirements and that proper BMP's are installed on the 'Erosion and Sediment Control Plan' sheet. Depending on the topography of the site there are very simple regulations: protect existing inlets throughout the project, protect newly created inlets once constructed, have some sort of perimeter control, and control the track-out of the construction activity.

The Development Services Department utilizes software to address each Department's aspects for a project as it pertains to "Plan Review." This software makes available a projects documents on the network. Each Department can access this network and make the necessary modifications to the plans via the 'mark-up' tool.

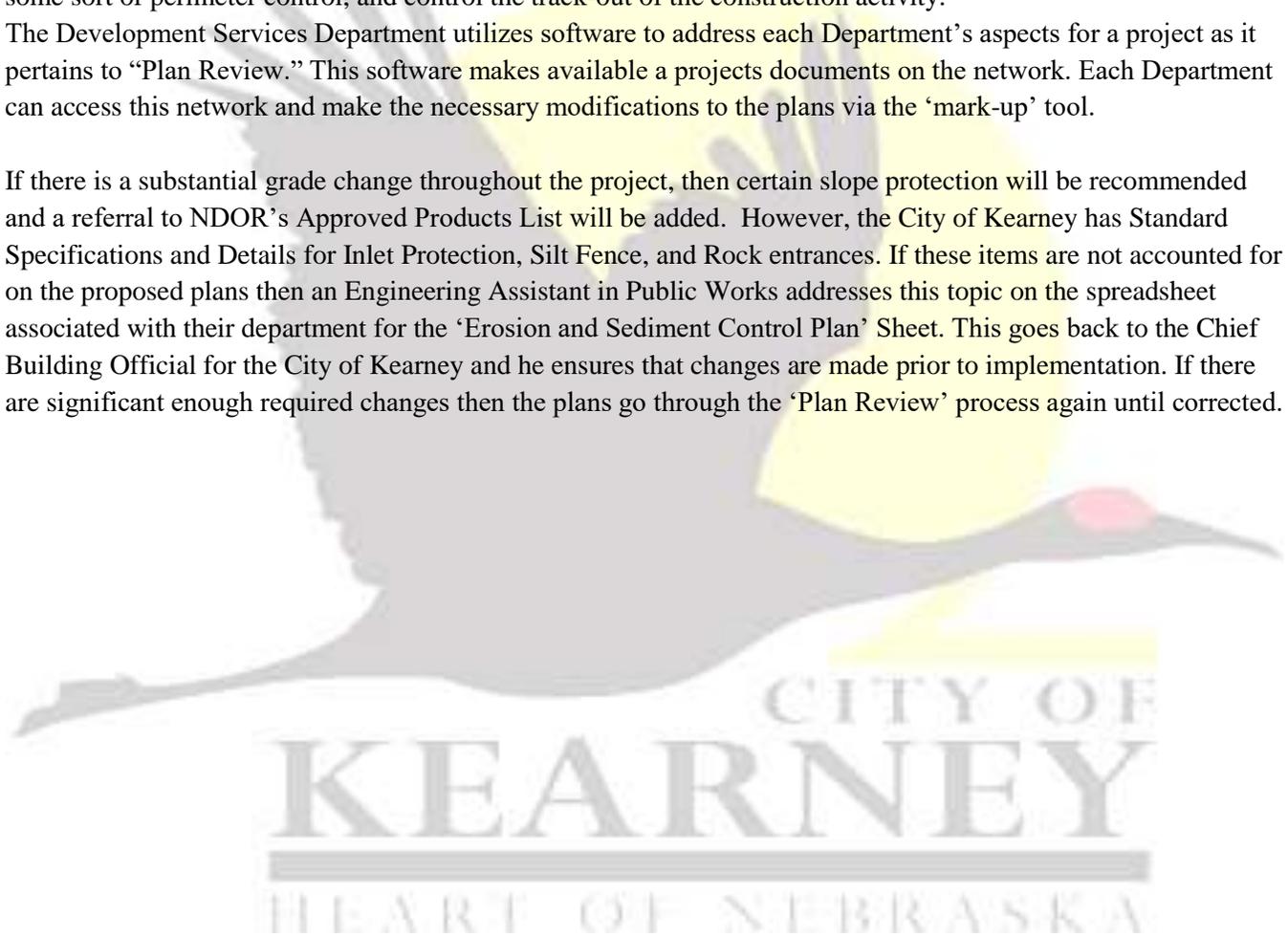


3.c.ii.3. Request for Modifications Process

The City of Kearney implements a ‘Plan Review’ process for inspecting if ‘Erosion and Sediment Control Plan’ sheets contain the proper Best Management Practices. When a developer follows through with their project, once a plan has gone through DRT then they proceed with the design and bring it forth through each department (Public Works, Utilities, Park and Recreation, Development Services, Electrical supplier) to ensure that each of their respective aspects of the project are accounted for. This is another opportunity for more feedback, to ensure the developer complies with required objectives of each department. It is at this process that the Public Works Department assesses the design for detention cell requirements and that proper BMP’s are installed on the ‘Erosion and Sediment Control Plan’ sheet. Depending on the topography of the site there are very simple regulations: protect existing inlets throughout the project, protect newly created inlets once constructed, have some sort of perimeter control, and control the track-out of the construction activity.

The Development Services Department utilizes software to address each Department’s aspects for a project as it pertains to “Plan Review.” This software makes available a projects documents on the network. Each Department can access this network and make the necessary modifications to the plans via the ‘mark-up’ tool.

If there is a substantial grade change throughout the project, then certain slope protection will be recommended and a referral to NDOR’s Approved Products List will be added. However, the City of Kearney has Standard Specifications and Details for Inlet Protection, Silt Fence, and Rock entrances. If these items are not accounted for on the proposed plans then an Engineering Assistant in Public Works addresses this topic on the spreadsheet associated with their department for the ‘Erosion and Sediment Control Plan’ Sheet. This goes back to the Chief Building Official for the City of Kearney and he ensures that changes are made prior to implementation. If there are significant enough required changes then the plans go through the ‘Plan Review’ process again until corrected.



3.c.ii. Land Disturbance less than 1 acre

1. Building Permit Language
2. Individual Lot Notice of Intent
3. Review Process



3.c.ii.1. Building Permit Language

The City of Kearney Code specifically requires a SWPPP to be submitted with the application of a building permit (9-1617). This language can be found in [Appendix A](#) of this document.

‘Any person who engages in construction activity is responsible for compliance with this Article and all applicable terms and conditions of the approved construction activity and SWPPP as it relates to the building phase of development...the following information shall be included with the application for a building permit and be submitted to the Chief Building Official...a certification that the building phase of development for the property described on the application for a building permit will be conducted in conformance with this Article and the Construction Activity SWPPP.’



3.c.ii.2. Individual Lot Notice of Intent

The City of Kearney requires an ‘Individual Lot Notice of Intent,’ as in conformance with a SWPPP, for each Building Permit per City Code 9-1617. This section is entitled ‘Requirements for the Building Phase of Development.’ This language is found in [Appendix A](#). The ‘Kearney Small Lot Notice of Intent’ can be found as [Appendix D](#) in this document.



3.c.ii.3 Review Process

The 'Kearney Small Lot Notice of Intent' applications are reviewed when they are received with the Building Permit Application. If the 'Kearney Small Lot Notice of Intent' is not completed properly or incomplete then the applicant is not awarded the Building Permit.



3.c.iii. Flowchart/Decision Tree

Projects Greater Than One Acre



Projects Less Than One Acre



4. Construction Stormwater Inspection and Tracking

- a. Essential Staff & Duties
- b. Inspection Process
- c. Inspection Frequency
- d. Tracking/Documentation Process



4.a. Essential Staff & Duties

i. Stormwater Manager/Engineering Assistant II

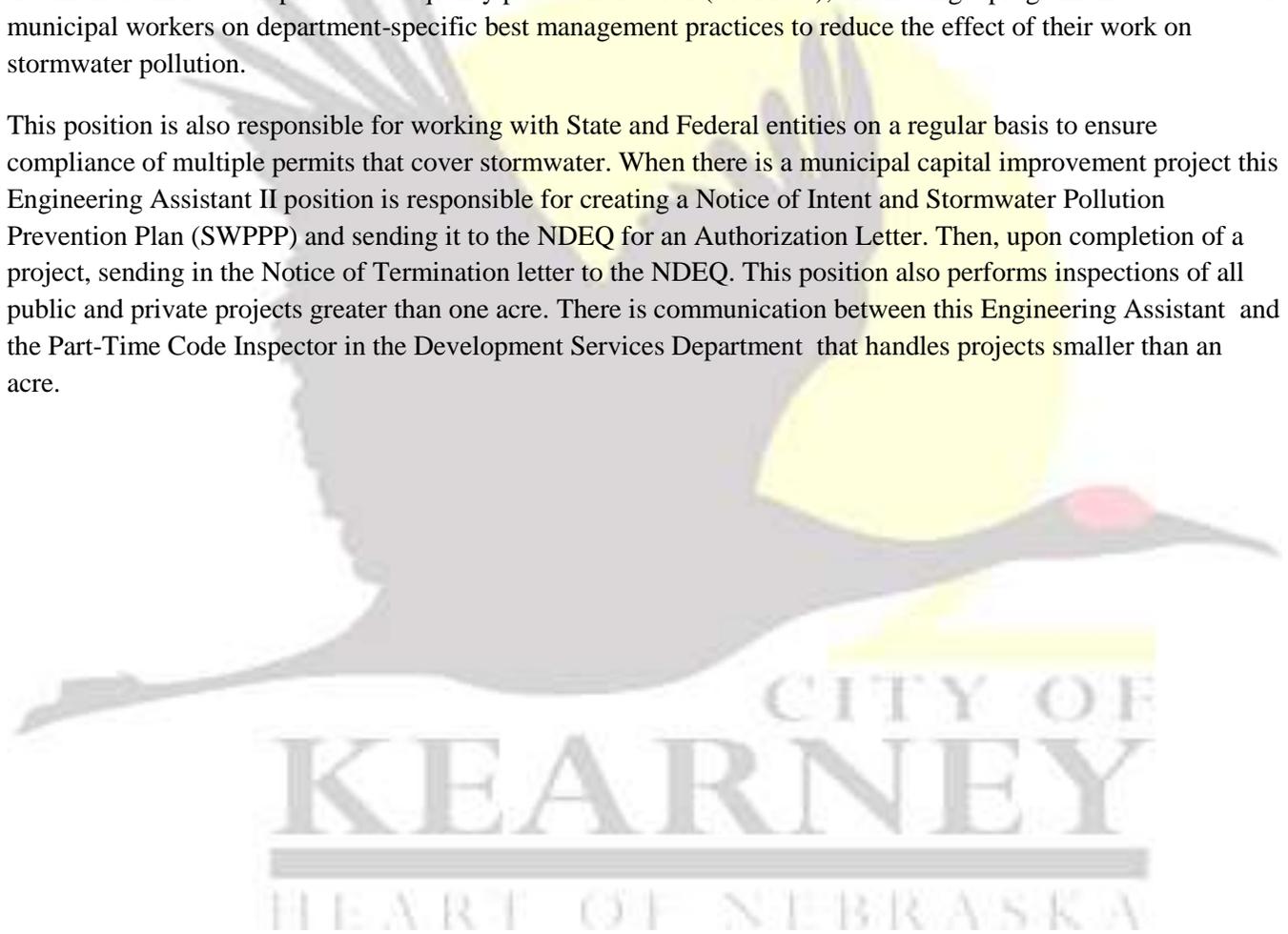
ii. PT City Code Inspector



4.a.i. Engineering Assistant II

The City of Kearney employs a full time position in the Public Works Department devoted to ensuring the Stormwater Management Plan is implemented to the maximum extent practicable. This includes: Actively educating the public on good habits to minimize their effect on stormwater pollution (MCM #1); Identifying individuals or groups that are actively involved in environmentally friendly events and supporting them (MCM #2); Following a Spill Response Plan in the event an illicit discharge occurs within our municipality as well as accounting for the location and maintenance of every storm inlet and storm pipe within our municipality (MCM #3); Having a construction stormwater program ensuring best management practices at all levels of development that the development community follows (MCM #4); Having a program that requires installation of stormwater treatment facilities to improve water quality post-construction (MCM #5); and having a program that educates our municipal workers on department-specific best management practices to reduce the effect of their work on stormwater pollution.

This position is also responsible for working with State and Federal entities on a regular basis to ensure compliance of multiple permits that cover stormwater. When there is a municipal capital improvement project this Engineering Assistant II position is responsible for creating a Notice of Intent and Stormwater Pollution Prevention Plan (SWPPP) and sending it to the NDEQ for an Authorization Letter. Then, upon completion of a project, sending in the Notice of Termination letter to the NDEQ. This position also performs inspections of all public and private projects greater than one acre. There is communication between this Engineering Assistant and the Part-Time Code Inspector in the Development Services Department that handles projects smaller than an acre.



4.a.ii. Code Inspector

The City of Kearney Development Services Department employs a Part-Time Code Inspector to work with Erosion and Sediment Control issues amongst 'less than an acre' development. This position conducts Erosion and Sediment Control inspections and deals with all necessary enforcement which is then documented in a software system in City Hall. There is communication between the Part-Time Code Inspector and the Engineering Assistant in the Public Works Department that handles projects greater than an acre.



4.b. Inspection Process

- i. City/Capital Improvement Projects
- ii. Private Development Projects
- iii. Individual Lot Inspections



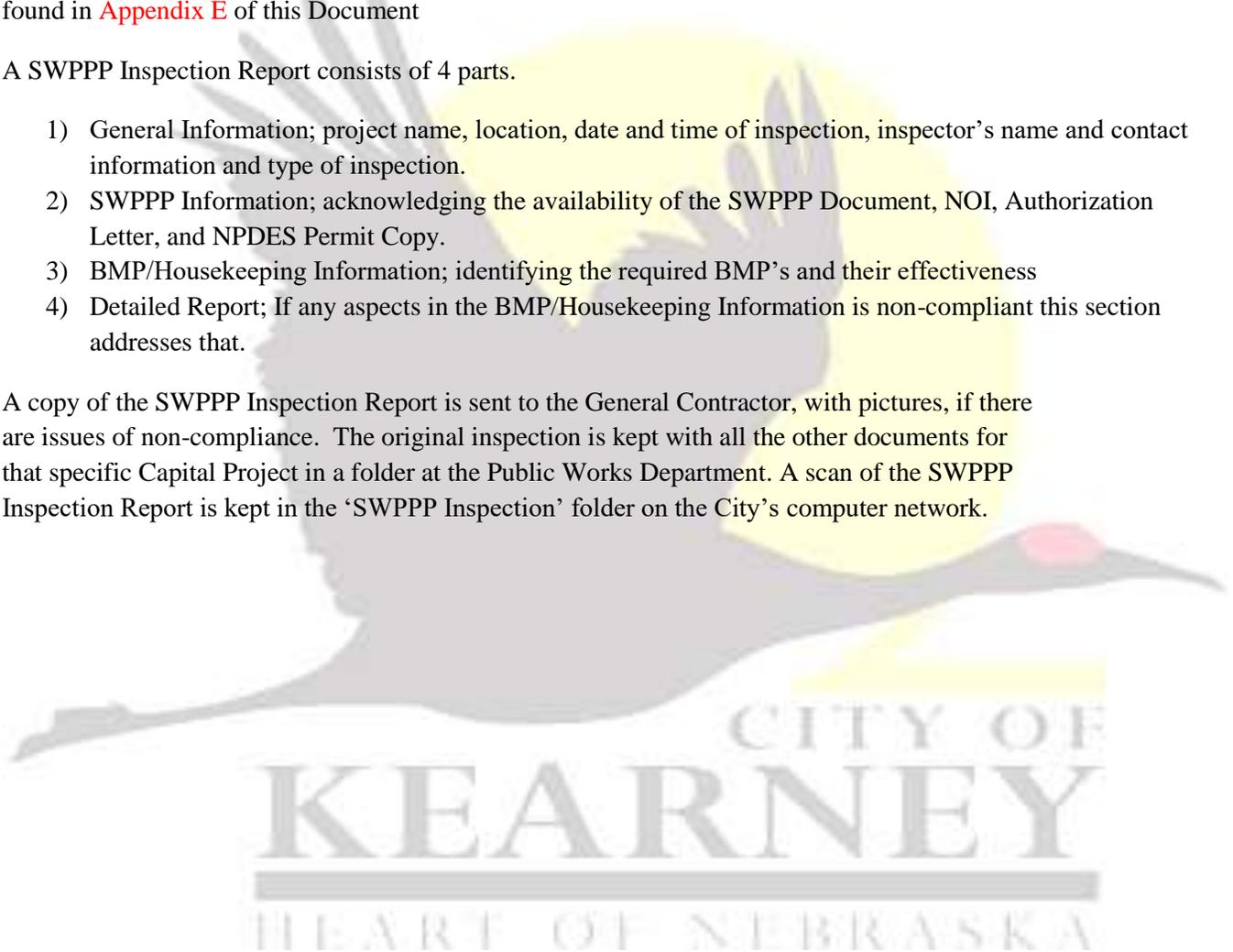
4.b.i. City/Capital Improvement Projects

The City of Kearney is required to conduct inspections on City/Capital Improvement Projects based on its MS4 Permit. As is written in our City Code Chapter 9 Article 16 ([Appendix A](#)) inspections are “conducted by an individual or who is 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 storm water quality and to assess the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity.” For the City of Kearney, that ‘individual’ is the position of Engineering Assistant II in the Public Works Department. A copy of the a SWPPP Inspection Report can be found in [Appendix E](#) of this Document

A SWPPP Inspection Report consists of 4 parts.

- 1) General Information; project name, location, date and time of inspection, inspector’s name and contact information and type of inspection.
- 2) SWPPP Information; acknowledging the availability of the SWPPP Document, NOI, Authorization Letter, and NPDES Permit Copy.
- 3) BMP/Housekeeping Information; identifying the required BMP’s and their effectiveness
- 4) Detailed Report; If any aspects in the BMP/Housekeeping Information is non-compliant this section addresses that.

A copy of the SWPPP Inspection Report is sent to the General Contractor, with pictures, if there are issues of non-compliance. The original inspection is kept with all the other documents for that specific Capital Project in a folder at the Public Works Department. A scan of the SWPPP Inspection Report is kept in the ‘SWPPP Inspection’ folder on the City’s computer network.



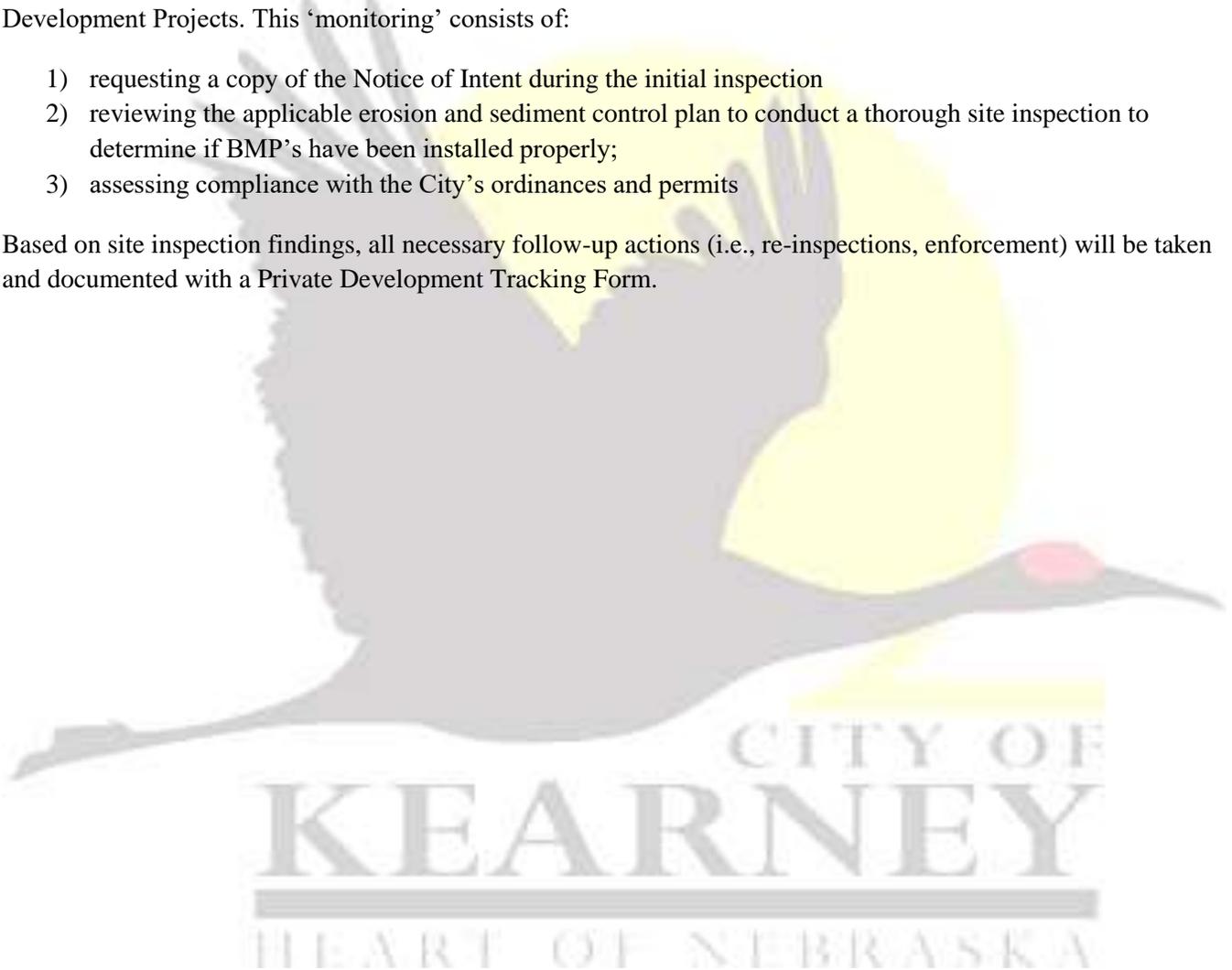
4.b.ii. Private Development Projects

Within the City of Kearney there are Private Development Projects that consist of disturbing more than one acre of land. The private developer must go through the same process that the City of Kearney does when it comes to obtaining SWPPP Certification from the NDEQ. They are also the responsible party for inspecting the project. More often than not the owner/developer subcontract out the SWPPP Administration and Inspection responsibilities but they are still the 'Certifying Official.'

The Engineering Assistant position in the Public Works Department is responsible for monitoring these Private Development Projects. This 'monitoring' consists of:

- 1) requesting a copy of the Notice of Intent during the initial inspection
- 2) reviewing the applicable erosion and sediment control plan to conduct a thorough site inspection to determine if BMP's have been installed properly;
- 3) assessing compliance with the City's ordinances and permits

Based on site inspection findings, all necessary follow-up actions (i.e., re-inspections, enforcement) will be taken and documented with a Private Development Tracking Form.



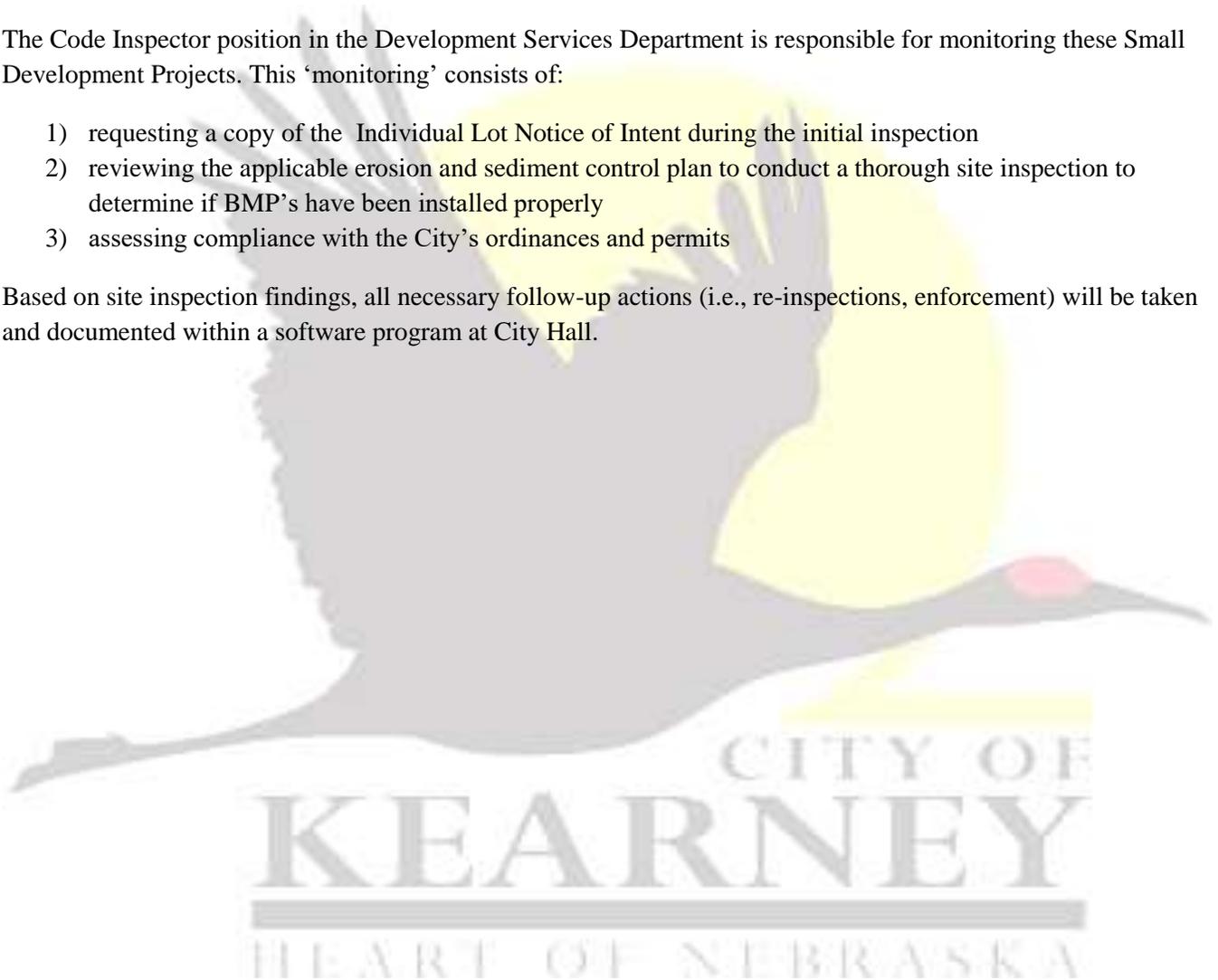
4.b.iii. Individual Lot Inspections

The City of Kearney cannot verify if equitable compliance rules and standards have occurred without a valid inspection program. Since the City is not issuing a separate stormwater permit for construction activity on small lots, site inspections are an essential component of the enforceable program. Within the City of Kearney there are Small Development Projects that consist of disturbing less than one acre of land. The small developer must go through a process of obtaining a Building Permit with the City of Kearney Development Services Department and with that is also required an 'Individual Lot NOI' ([Appendix D](#)).

The Code Inspector position in the Development Services Department is responsible for monitoring these Small Development Projects. This 'monitoring' consists of:

- 1) requesting a copy of the Individual Lot Notice of Intent during the initial inspection
- 2) reviewing the applicable erosion and sediment control plan to conduct a thorough site inspection to determine if BMP's have been installed properly
- 3) assessing compliance with the City's ordinances and permits

Based on site inspection findings, all necessary follow-up actions (i.e., re-inspections, enforcement) will be taken and documented within a software program at City Hall.



4.c. Inspection Frequency

- i. City/Capital Improvement Projects
- ii. Private Development Projects
- iii. Individual Lots



4.c.i. City/Capital Improvement Projects

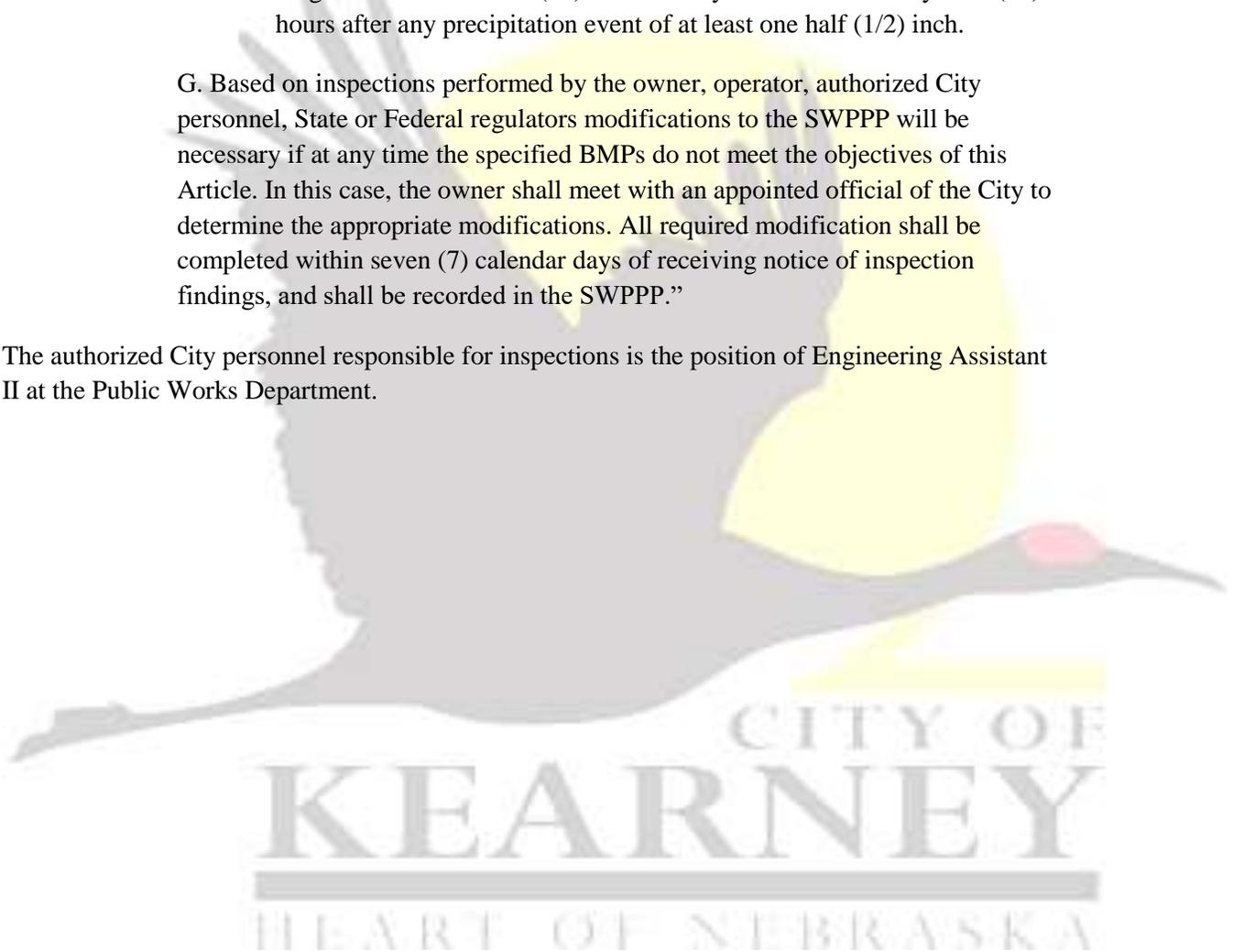
All City of Kearney Capital Improvement Projects are operated under an NDEQ Construction Stormwater NER160000 Permit. This permit requires regular inspections. Our City Code has adopted the permits language in requiring regularly scheduled inspections. Chapter 9, Article 16, Ord. No. 7573 states:

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

- 1) The owner or their representatives 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.

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 modification shall be completed within seven (7) calendar days of receiving notice of inspection findings, and shall be recorded in the SWPPP.”

The authorized City personnel responsible for inspections is the position of Engineering Assistant II at the Public Works Department.



4.c.ii. Private Development Projects

All City of Kearney Private Develop Projects are operated under an NDEQ Construction Stormwater NER160000 Permit. This permit requires regular inspections. Our City Code has adopted the permits language in requiring regularly scheduled inspections. Chapter 9, Article 16, Ord. No. 7573 states:

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

- 1) The owner or their representatives 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.

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 modification shall be completed within seven (7) calendar days of receiving notice of inspection findings, and shall be recorded in the SWPPP.”

The authorized City personnel responsible for monitoring the Private Development Projects is the Engineering Assistant II working in the Public Works Department. The frequency for which these Private Development projects are monitored is dependent on a visual test and the severity of the weather. If it's an exceptionally rainy season and the BMPs in place are not adequate, then the contractor is notified and the Enforcement Response Plan is followed. Another factor affecting the frequency is the duration of the project. Some projects take weeks and others take years. An initial comprehensive inspection is conducted by the Engineering Assistant II at least once during the first 30 days of active construction to ensure the NOI is available and the Erosion and Sediment Control Plan sheet is implemented. Follow-up inspections would ensue with improper implementation and maintenance of the Erosion and Sediment Control Plan. Final site inspections will be conducted by the Engineering Assistant II for sites greater than one (1) acre before a construction site operator is released from obligation to manage stormwater runoff.



4.c.iii. Individual Lots

The City of Kearney Development Services Code Inspector that is responsible for Erosion and Sediment Control Inspections is part-time. This controls the frequency at which Individual Lot inspections are performed. At any one time there could be more than one-hundred (100) Building Permits out that the Code Inspector will be inspecting for erosion and sediment control compliance. The Code Inspector regularly inspects these locations at least twice per calendar month, more depending if a re-inspection or enforcement is required. Basic site inspections will be conducted by the Development Services Code Inspector any time they are on a site with active construction.



4.d. Tracking/Documentation Process

- i. Kearney Construction Stormwater Tracking Form
- ii. Individual (Small) Lot Inspection



4.d.i. Kearney Construction Stormwater Tracking Form

1. City/Capital Improvement Projects
2. Private Development Projects



4.d.i.1. City/Capital Improvement Projects

Dashboard Construction Proj Mgr Ledger

Construction Project Ledger

System ID: NPDES Permit#: Owner/ Representative:

Ledger ID: Work Type:

Location: Plan Review Date: Comments:

Designer: Plan Reviewer:

Contractor:

Inspection Schedule Satisfied:

Enforcement Status:

Ongoing Enforcement:

Site Inspections subform

System	Inspection Hazard	Inspection Date	Violation Identified	Investigation Required	Comments
(New)					

Records: 1 of 1

Enforcement Investigation within 2 days:



4.d.i.2. Private Development Projects

Dashboard Construction Pj Mar Ledger

Construction Project Ledger

System ID: NPDES Permit#: Owner/ Representative:

Ledger ID: Work Type:

Location: Plan Review Date:

Designer: Plan Reviewer:

Contractor: Comments:

Inspection Schedule Satisfied:

Enforcement Status:

Ongoing Enforcement:

Site Inspections subform

System	Inspection Record	Inspection Date	Violation Identified	Investigation Required	Comments
	(New)			<input type="checkbox"/>	

Records: 1 of 1

Enforcement Investigation within 2 days:



4.d.ii. Individual (Small) Lot Inspection

1. Tracking & Documentation Procedures
2. Determination description for 'compliance vs. non-compliance'



4.d.ii.1. Tracking & Documentation Procedures

The City of Kearney Development Services Department Code Inspector uses a software called ‘Citizen Serve’ to document his inspections. He’s able to query search any topic...Address, Date, Contractor Name...etc. This software also encompasses the other Code Inspectors inspections in their own categories, but his ‘Erosion and Sediment Control’ section is solely for his work. For inspections that result in a ‘pending’ instead of ‘Site Compliant’ the contractor is notified and the process of compliance takes place. If no compliance takes place the general construction inspections (e.g. Electrical and Plumbing) are withheld until the contractor gets within compliance.

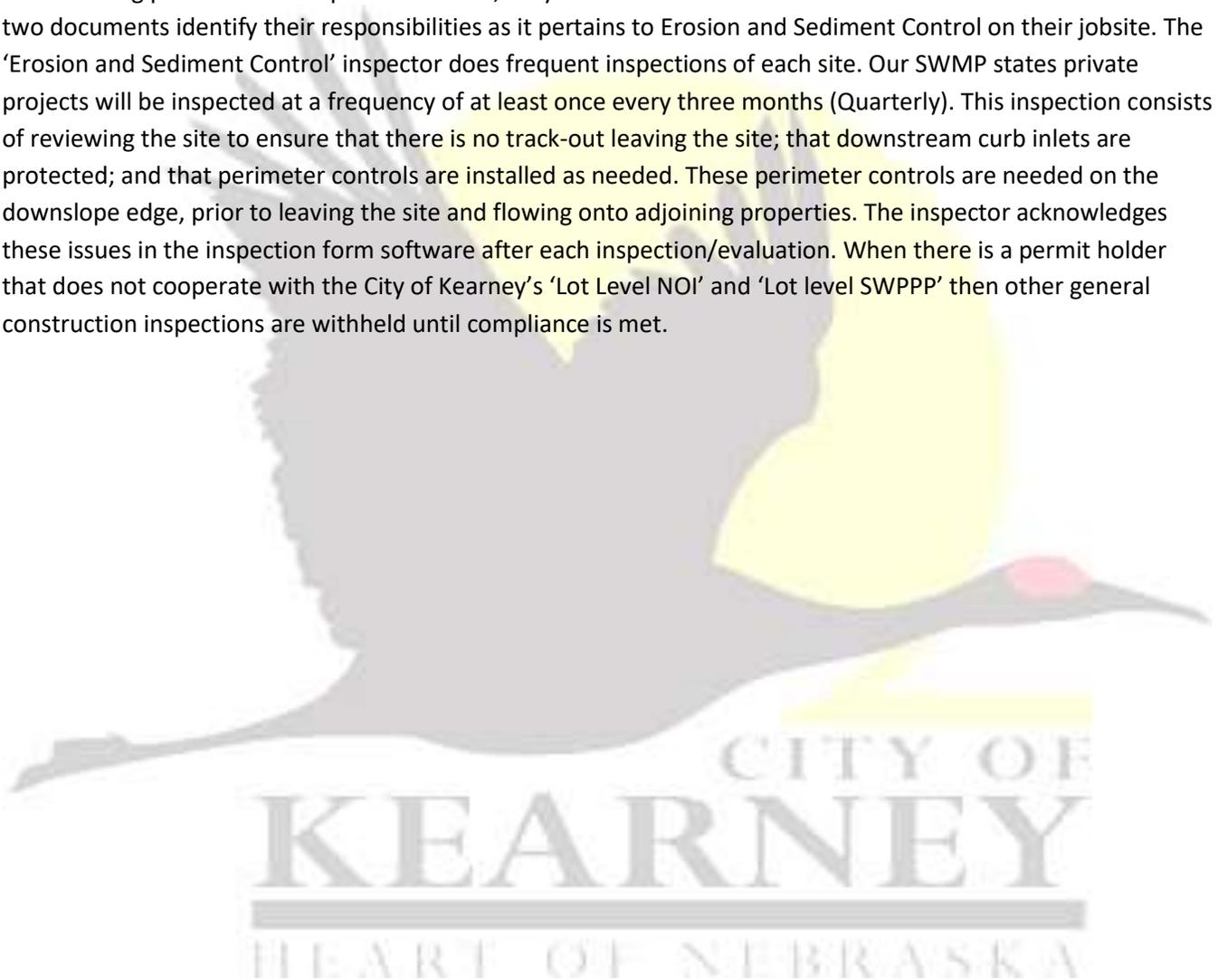
File #: 17-000027 ***
 1019 17th Avenue Kearney NE 68847 ← Permit Location
 2138 sf

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Permits	Reviews	Inspections	Violations	Activities	Documents	Contacts	History
Activity Type	Assigned By	Assigned To	Permit #	Assigned	Due	Complete	Status
Erosion Control	Gary Proskocil	Gary Proskocil		10/31/2017	10/30/2017	10/30/2017	Site Compliant
GP 10/30/17* Erosion Control: Final erosion control inspection, sodded. Site compliant.							
Erosion Control	Gary Proskocil	Gary Proskocil		10/24/2017	10/23/2017	10/23/2017	Site Compliant
GP 10/23/17* Erosion Control: Front and front sodded. Site compliant.							
Erosion Control	Gary Proskocil	Gary Proskocil		10/20/2017	10/19/2017	10/19/2017	Site Compliant
GP 10/19/17* Erosion Control: Possible getting ready for sod. Site compliant.							
Erosion Control	Gary Proskocil	Gary Proskocil		10/17/2017	10/16/2017	10/16/2017	Site Compliant
GP 10/16/17* Erosion Control: Site compliant.							
Erosion Control	Gary Proskocil	Gary Proskocil		10/13/2017	10/12/2017	10/12/2017	Site Compliant
GP 10/12/17* Erosion Control: Skid loader moving dirt around site. Site compliant.							

4.d.ii.2. Determination description for 'compliance vs. non-compliance'

The City of Kearney Development Services Department has multiple inspectors of varying phases of general construction. One of these phases is 'Erosion and Sediment Control.' There is an inspector position that evaluates the status of all building permit holders within the City of Kearney. When a group or individual applies for a building permit at Development Services, they also fill out a 'Lot Level SWPPP' and a 'Lot Level NOI.' These two documents identify their responsibilities as it pertains to Erosion and Sediment Control on their jobsite. The 'Erosion and Sediment Control' inspector does frequent inspections of each site. Our SWMP states private projects will be inspected at a frequency of at least once every three months (Quarterly). This inspection consists of reviewing the site to ensure that there is no track-out leaving the site; that downstream curb inlets are protected; and that perimeter controls are installed as needed. These perimeter controls are needed on the downslope edge, prior to leaving the site and flowing onto adjoining properties. The inspector acknowledges these issues in the inspection form software after each inspection/evaluation. When there is a permit holder that does not cooperate with the City of Kearney's 'Lot Level NOI' and 'Lot level SWPPP' then other general construction inspections are withheld until compliance is met.



5. Enforcement

The City of Kearney uses an Enforcement Response Plan (ERP) and ordinances written into our City Code to ensure that our Construction Stormwater Program is followed. The following sections these documents.

5.a. City ordinances

5.b. Enforcement Response Plan



5.a. Ordinance Reference, Kearney City Code Chapter 9

In the Public Works Chapter of the Kearney City Code (Chapter 9) Article 16 is entitled “Construction and Post-Construction Storm Water Code.” Division V of this Article is ‘Enforcement.’ This is located in [Appendix A](#).



5.b. Enforcement Response Plan (ERP)

The City of Kearney has in place an Enforcement Response Plan (ERP) that it utilizes to enforce the Construction Stormwater ordinance. This ERP is located in [Appendix F](#) of this document.



6. Training and Education

- a. Define Target Pollutants of Concern
- b. Define Target Audience
- c. Outline of target messages to convey in training & education
- d. Delivery of Training & Education
- e. Design Review Team interactions with developers and designers
- f. Building Permit Review Process

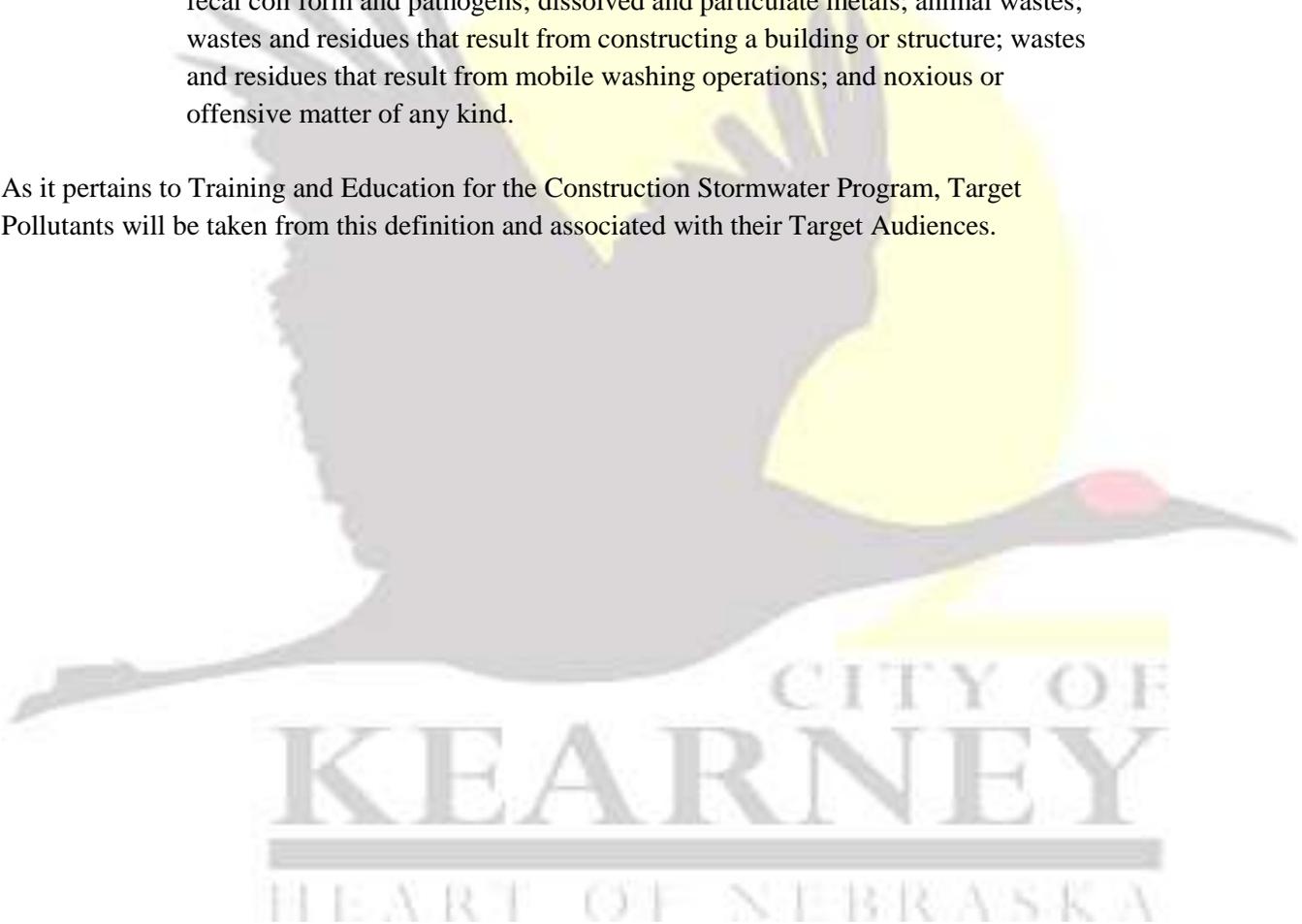


6.a. Define Target Pollutants of Concern

The City of Kearney has clearly defined the term ‘Pollutant’ multiple times in City Code. As it relates to Construction Stormwater, the definition is unchanged. Chapter 9, Article 16, 9-1602 defines “Pollutant,”

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.

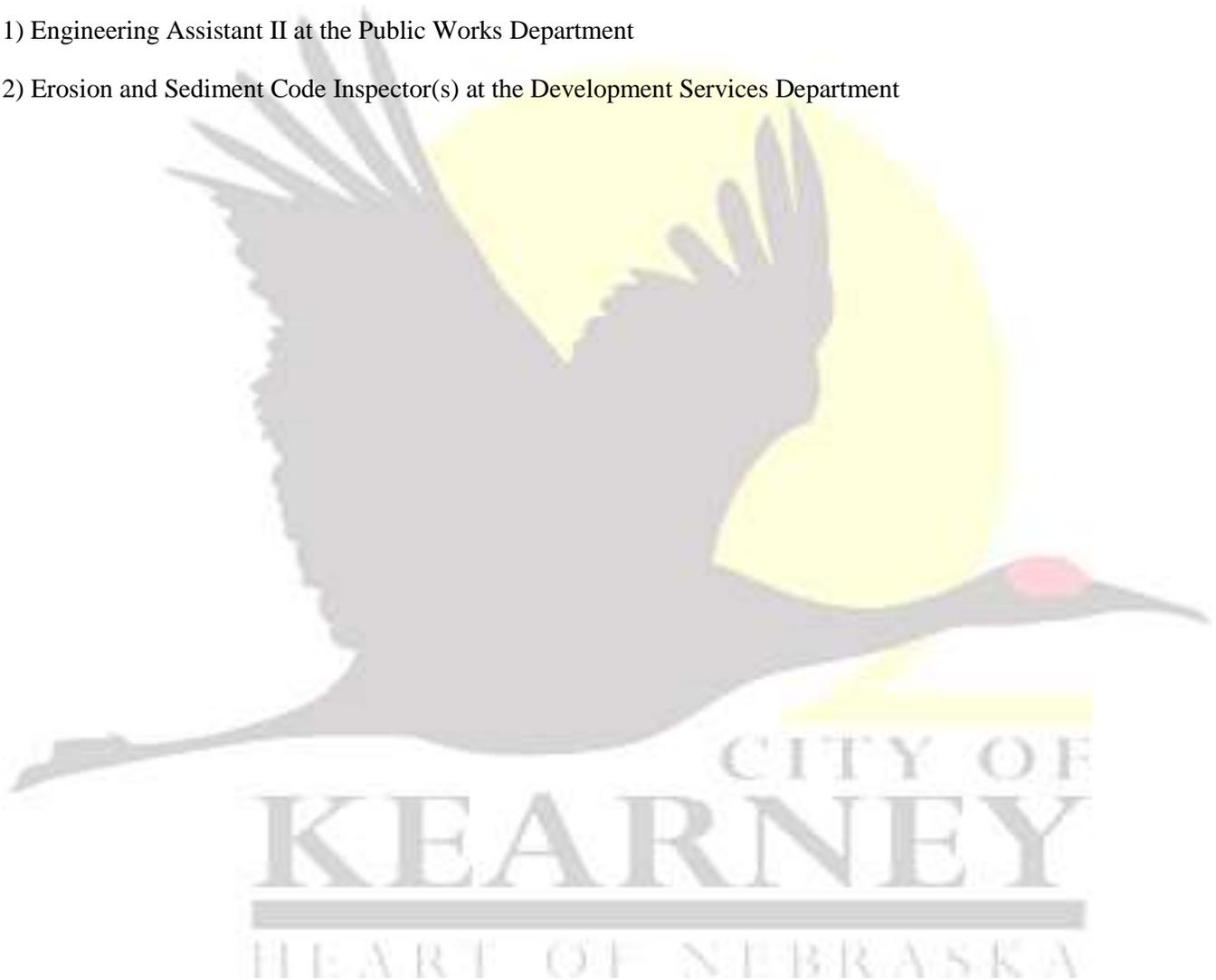
As it pertains to Training and Education for the Construction Stormwater Program, Target Pollutants will be taken from this definition and associated with their Target Audiences.



6.b. Define Target Audience

The City of Kearney has employees that deal with the development community on a daily basis. These employees are responsible for inspections of development projects of varying sizes from small lot construction to Municipal/Capital Improvement Projects. At times, these employees are telling contractors/developers what is acceptable or not as Erosion and Sediment Control (ESC) Best Management Practices (BMPs). The two positions the City employs to do this are:

- 1) Engineering Assistant II at the Public Works Department
- 2) Erosion and Sediment Code Inspector(s) at the Development Services Department



6.b.i. Training Municipal Staff

Erosion and Sediment Control Code inspectors must meet the minimum standards of a “qualified inspector” as stated in the NPDES Construction Stormwater Permit and the City of Kearney Municipal Code. This means that all ESC inspectors will attend training recognized, approved or sponsored by the NDEQ regarding Erosion and Sediment Control. All Code Inspectors will attend two (2) meetings with the Stormwater Program Manager to discuss inspections, findings, and problem areas.

In general, qualified inspectors are knowledgeable in the principles and practice of erosion and sediment controls and possess 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.



6.c. Outline of Target Messages to convey in Training & Education

The City of Kearney has several messages it tries to convey during its training and educational processes. The biggest challenge is identifying target audiences and ensuring that the message directed towards them is appropriate for the service they perform.

1. Municipal Employees

- a. Spill Response Plan
 - b. Illicit Discharge Cleanup
 - c. Dept. Specific BMP's
-

2. General Contractors

- a. Erosion and Sediment Control BMP's
 - b. Procedural information
 - c. New programs
-

3. Trade Contractors

- a. Lawn and Landscape
 - b. Restaurant Owners
 - c. Concrete Companies
 - d. Mobile Cleansing
 - e. Automotive Repair
-

4. General Public

- a. Children
 - b. Adults
-

6.d. Delivery of Training & Education

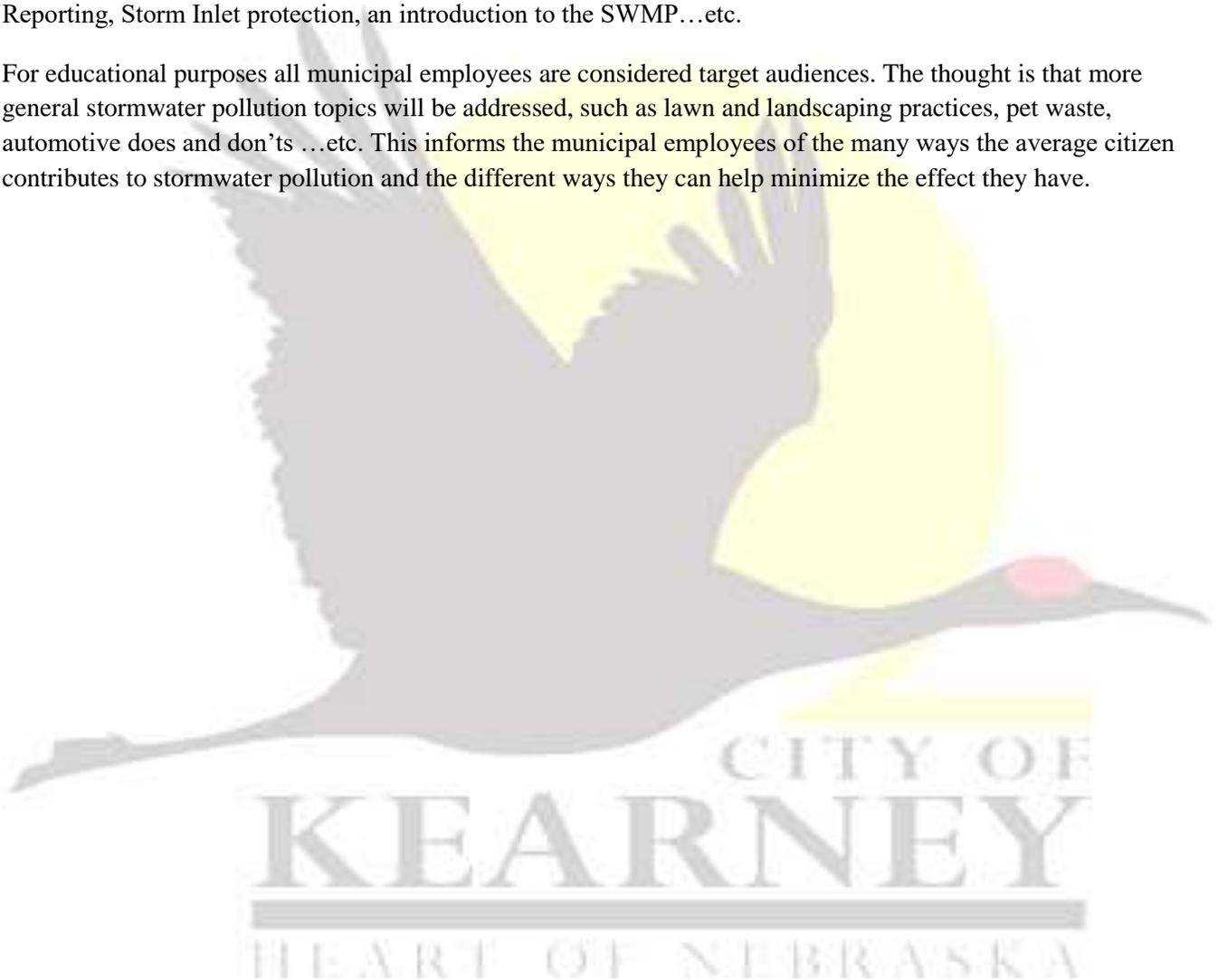
- i. Municipal Staff
- ii. Developers & Designers
- iii. General Contractors
- iv. Trade Contractors
- v. General Public



6.d.i. Municipal Staff

The City of Kearney targets specific departments when it considers which employees to train and targets ALL City employees when it comes to education. Training of employees whose regular duties consist of working with hazardous materials is a high priority. The training consists of several formats. DVD's addressing municipal processes such as fleet and maintenance, utilities, storm sewer maintenance, and sanitation are used for training every other year. There are quarterly newsletters that are sent out concerning a variety of subjects like Good Housekeeping, Fueling Operations, Facility Runoff Control Plans, Spill Response Plan, Illicit Discharge Reporting, Storm Inlet protection, an introduction to the SWMP...etc.

For educational purposes all municipal employees are considered target audiences. The thought is that more general stormwater pollution topics will be addressed, such as lawn and landscaping practices, pet waste, automotive does and don'ts ...etc. This informs the municipal employees of the many ways the average citizen contributes to stormwater pollution and the different ways they can help minimize the effect they have.



6.d.ii. Developers & Designers

The City of Kearney has a very good relationship with the local developers and designers. Every week the Kearney Development Review Team (DRT) gets together to review any plan brought in front of them. It is at this point that the members of the DRT ([Appendix C](#)) will inform the developers and designers of any changes or new programs that are upcoming. Also, the Development Services Department sends out newsletters every 6 months that contain updates or changes to necessary programs or amendments to City Code. When the City of Kearney amends City Code it is at City Council meetings held every other Tuesday. The agenda for these meetings is made clear to the public well in advance and when these amendments are presented there is the opportunity for the public to make comments or ask questions.



6.d.iii. General Contractors

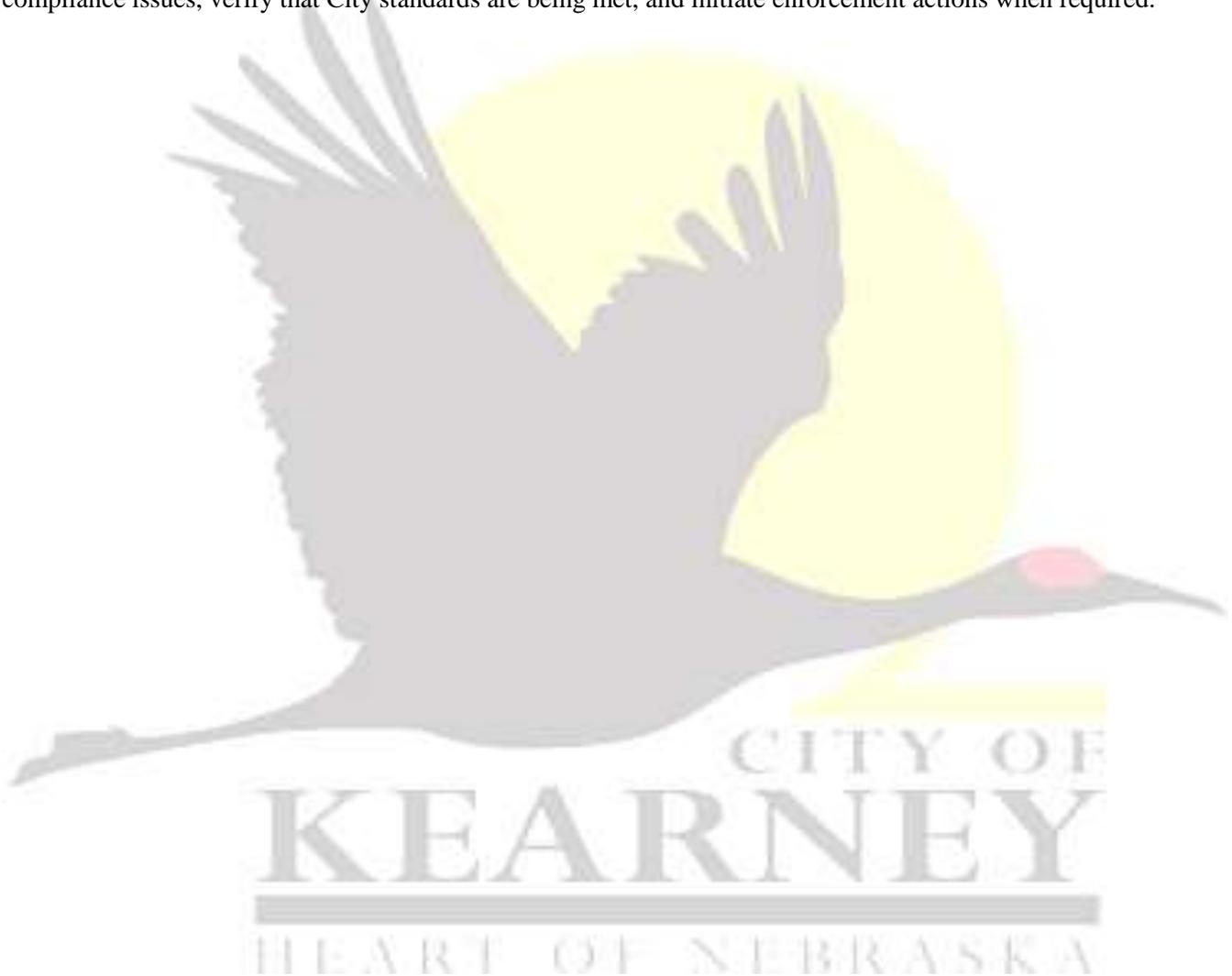
Site Inspections provide the opportunity to educate construction site operators about required actions, document compliance issues, verify that City standards are being met, and initiate enforcement actions when required.



6.d.iv. Trade Contractors

The City of Kearney has contact lists of Trade Contractors operating in the Kearney area. Every December and June the Development Services Director sends out a newsletter to each of them. This list can be broken down to trade-specific contractors. For example, automotive, concrete, landscaping, restaurant, and mobile cleansing are some of these trades. These contractors are educated through newsletters, trade shows, and commercials, amongst others. The Public Education and Outreach strategy of the Stormwater Management Program sends educational newsletters to each trade –automotive, concrete, landscaping, restaurant, and mobile cleansing- on a regular basis.

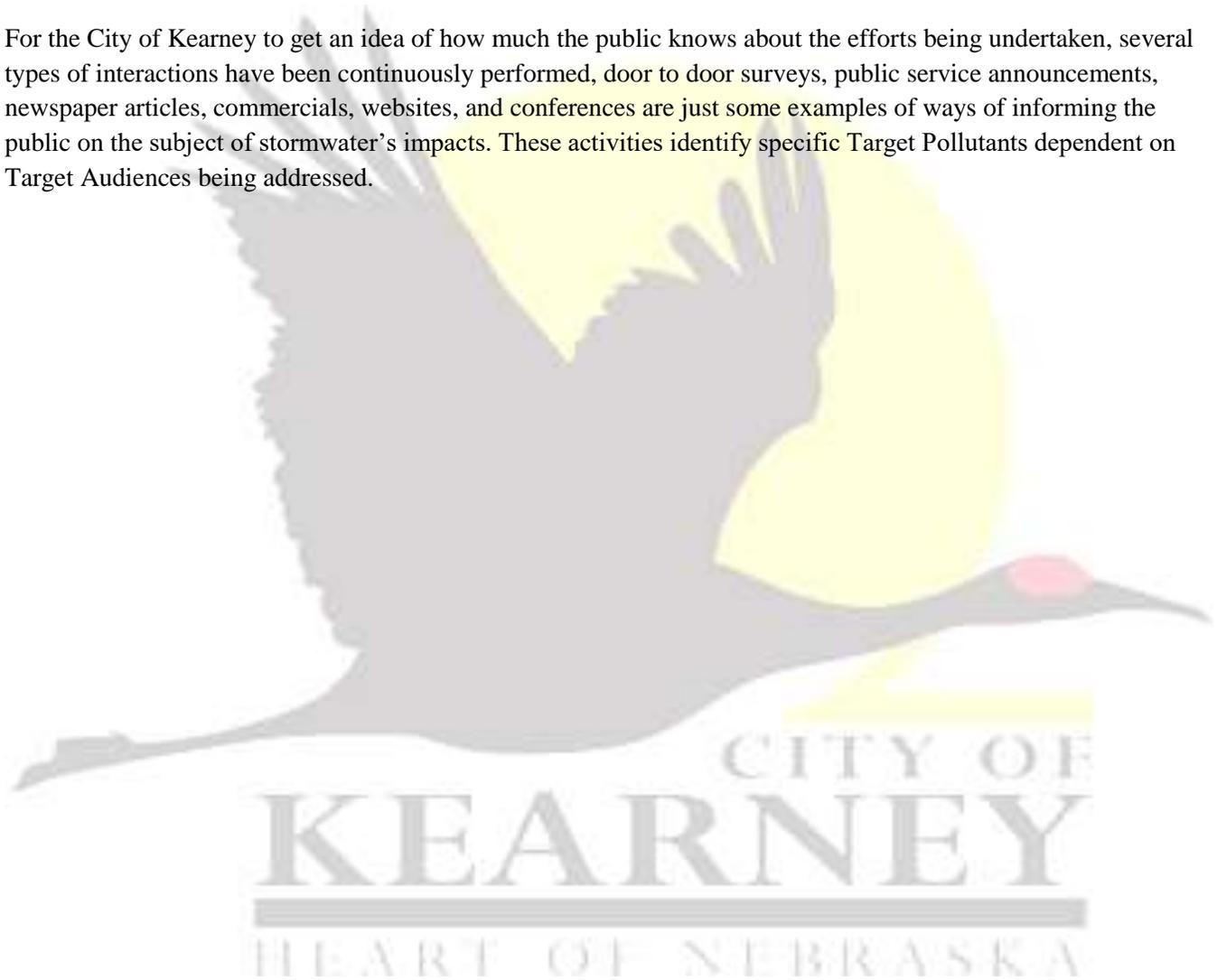
Site Inspections provide the opportunity to educate construction site operators about required actions, document compliance issues, verify that City standards are being met, and initiate enforcement actions when required.



6.d.v. General Public

As part of its compliance with the NDEQ NER310000 MS4 Permit the City of Kearney has created a 'Public Education and Outreach Program.' This program is used to distribute educational materials to the community and conduct equivalent outreach activities about the impacts of polluted stormwater discharges on water bodies and the steps our community is taking to minimize the pollutants in those discharges. The public are a necessary component in the fight against stormwater pollution. Creating venues of interaction between professionals with knowledge of stormwater issues and the public is a key way in increasing their awareness on the subject.

For the City of Kearney to get an idea of how much the public knows about the efforts being undertaken, several types of interactions have been continuously performed, door to door surveys, public service announcements, newspaper articles, commercials, websites, and conferences are just some examples of ways of informing the public on the subject of stormwater's impacts. These activities identify specific Target Pollutants dependent on Target Audiences being addressed.



6.e. Development Review Team Interactions with Developers and Designers

The City of Kearney Development Review Team meets weekly with developers at City Hall. At this meeting each developer is alerted of the requirements for a successful project by each Department Director. The Public Works Department participants at the meeting educate developers on the need for a 'Notice of Intent' and the process involved with going through the NDEQ to apply for one. Also, the developers are alerted about the required sized detention cells for a project. This is the first step for ALL developers who build in Kearney, creating a unique opportunity for information to be spread. New programs that the Stormwater Management Program begins to implement are introduced to developers ahead of time on this occasion. Throughout the course of a year the number of developers that are in front of the DRT is in the dozens.



6.f. Building Permit Review Process

The City of Kearney Development Services Department is responsible for the Building Permit Review Process. Along with the Building Permit application there is required an 'Individual Lot NOI' and an 'Individual Lot SWPPP'. This 'Individual Lot NOI' and 'Individual Lot SWPPP' can be found in this document as [Appendix D](#). The purpose of these forms is to allow for coverage under the Federal Clean Water Act. The specific Site Plan used (A, B, or C) is identified. The acknowledgement of BMP construction, implementation and maintenance responsibility is addressed. There are brochures on all types of erosion and sediment control plans for general guidance on BMP installation. Also, the Chief Building Official and Code Inspectors are available for answering any questions the applicant may have.



6.f.i. Interactions with Builders

The City of Kearney has many interactive opportunities with the builders of the region. Whether they are working on small scale development, private construction on subdivisions, or Municipal/Capital improvements, the opportunities for our City employees to correspond with builders is widespread.

When a small scale development project begins the developers/builders must apply for a building permit/Individual Lot NOI/individual Lot SWPPP prior to construction with the Development Services Department at City Hall. Throughout the construction process there are many inspections performed on the building- electrical-plumbing- and erosion control aspects. Each of these inspections is a great chance for communication between the City and builder. Prior to completion of the project, and allowed permanent occupancy, there must be a checklist of acceptable compliance issues.

When a developer wishes to make a private development must send in a 'Notice of Intent' and proposed SWPPP to the NDEQ and wait for an 'Authorization Letter' prior to beginning construction. The SWPPP must be followed by the 'Certifying Official' who signed it. There are random inspections performed by the Stormwater Manager/Engineering Assistant II from the Public Works Department of the City of Kearney to ensure compliance with the NDEQ permit (however, enforcement of the permit is not solely the responsibility of the City of Kearney).

Projects that are being constructed for the City of Kearney as capital improvement projects must abide by a SWPPP that the City of Kearney Public Works Department fills out and sends, along with a Notice of Intent, to the NDEQ. Once the City of Kearney receives an 'Authorization Letter' from the NDEQ then the construction may commence. The Stormwater Manager/Engineering Assistant II performs the required inspections every two (2) weeks and after each rain event of .50" or more. There does not need to be a reason for any City of Kearney employee to enter a capital improvement site. This allows for great interaction with the onsite builders.



Appendix A:

City Code SWPPP

Notwithstanding the provisions of Section 9-1565 of this Article, any person receiving a Notice of Violation under Section 9-1561 of this Article may appeal the determination of the City Engineer to the Director of Public Works. The notice of appeal must be received by the Director of Public Works within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the Director of Public Works or his/her designee shall take place within fifteen (15) days from the date of City's receipt of the notice of appeal. The decision of the Director of Public Works or his/her designee shall be final.

9-1563 ABATEMENT BY CITY

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 under Section 9-1562 of this Article, within ten (10) days of the decision of the Director of Public Works upholding the decision of the City Engineer, then the City or a contractor designated by the Director of Public Works shall enter upon the subject private property and is 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 or agent in possession of any premises to refuse to allow the City or its designated contractor to enter upon the premises for the purposes set forth above.

9-1564 CHARGING COST OF ABATEMENT/LIENS

Within fifteen (15) days after the City of Kearney taking action to abate a violation, the owner or party in possession of the property will be notified of the cost of abatement, including administrative costs incurred in curing the violation. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days to the City of Kearney. If the amount due is not paid within thirty (30) days of the decision of the City of Kearney or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this Article shall become liable to the City by reason of such violation, at which time the City may file civil action to collect said costs, plus interest and reasonable attorneys fees.

9-1565 URGENCY ABATEMENT

The Director of Public Works is authorized to require immediate abatement of any violation of this Article that constitutes an immediate threat to the health, safety or well-being of the public or the environment. If any such violation is not abated immediately as directed by the Director of Public Works, the City of Kearney is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of Kearney shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this Section shall not prevent the City from seeking other and further relief authorized under this Article.

9-1566 VIOLATION DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties hereinbefore provided, 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 by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

9-1567 PENALTY FOR VIOLATION

Any person who shall violate any provision of Article 15 adopted by the provisions listed within the above paragraphs shall be deemed guilty of a misdemeanor, and shall be punished as provided by Section 1-111 of this Code. Each day such violation continues shall be deemed a separate offense.
(Ord. No. 7500, 1-13-2009)

ARTICLE 16. CONSTRUCTION AND POST-CONSTRUCTION STORMWATER CODE

DIVISION I. GENERAL PROVISIONS

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.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

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.

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.

Clearing: Any activity that removes the vegetative surface cover.

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 (PCSMF). 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.
(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

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.
(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

9-1604 RESPONSIBILITY FOR ADMINISTRATION

The City shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the City may be delegated by the Mayor or City Manager to persons or entities acting in the beneficial interest of or in the employ of the City.
(Ord. No. 7573, 2-23-2010)

9-1605 SEVERABILITY

The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Article.
(Ord. No. 7573, 2-23-2010)

9-1606 APPLICABILITY

A. This Article shall be applicable to all construction activity and land developments requiring; including, but not limited to site plan applications, subdivision applications, building applications, and right-of-way applications from the City, unless exempt pursuant to Paragraph B of this Section below. These provisions apply to all portions of any common plan of development or sale which would cause the disturbance of at least one acre of soil even though multiple, separate and distinct land development activities may take place at different times on different schedules.

B. The following activities are exempt from this Article:

(1) Any emergency activity that is necessary for the immediate protection of life, property, or natural resources; and

(2) Construction activity that provides maintenance and repairs performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.

(Ord. No. 7573, 2-23-2010)

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.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

9-1608 – 9-1615 RESERVED

DIVISION II. CONSTRUCTION

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.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

9-1617 REQUIREMENTS FOR THE BUILDING PHASE OF DEVELOPMENT

Any person who engages in construction activity is responsible for compliance with this Article and all applicable terms and conditions of the approved construction activity and SWPPP as it relates to the building phase of development. The following information shall be included with the application for a building permit and be submitted to the Chief Building Official:

A. Either the legal description and NPDES permit number for the Larger Common Plan of Development; OR

B. The location of the property where the building phase of development is to occur; AND

C. A certification that the building phase of development for the property described on the application for a building permit will be conducted in conformance with this Article and the Construction Activity SWPPP.

(Ord. No. 7573, 2-23-2010)

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.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

9-1619 REQUIREMENTS FOR UTILITY CONSTRUCTION

A. Utility agencies or their representatives shall develop and implement BMPs to prevent the discharge of pollutants on any site of utility construction within the City. The City may require additional BMPs on utility construction activity. If the utility construction disturbs greater than one (1) acre, the utility agency must comply with the requirements of Section 9-1616 and Section 9-1617 of this Article.

B. Utility agencies or their representatives shall implement BMPs to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site exits shall be managed to prevent sediment tracking. Sediment tracked onto public right-of-way shall be removed immediately.

C. Prior to entering a construction site or subdivision development, utility agencies or their representatives shall obtain and comply with any approved erosion and sediment control plans for the project. Any impact to construction and post-construction BMPs resulting from utility construction shall be evaluated prior to disturbance by the developer and utility company. Repairs to the disturbed BMPs must be completed within forty-eight (48) hours, by individuals agreed upon during the design phase or at a preconstruction meeting.

(Ord. No. 7573, 2-23-2010)

9-1620 – 9-1625 RESERVED

DIVISION III. POST-CONSTRUCTION

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.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

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 STF's shall be required before a Certificate of Occupancy will be issued or any public infrastructure is accepted.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

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.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

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.

(Ord. No. 8131, 3-14-2017)

9-1630 – 9-1632 RESERVED

DIVISION IV. TECHNICAL STANDARDS, SUBMISSIONS, INSPECTION AND MONITORING

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 can be found at the City of Kearney Public Works Department.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

9-1634 SUBMISSIONS FROM THE GENERAL PUBLIC

The City will consider information from the public as it pertains to the implementation and enforcement of this Article.

(Ord. No. 7573, 2-23-2010)

9-1635 AUTHORIZATION OF ENFORCEMENT PERSONNEL

The City shall designate appointed personnel with authority to conduct inspections, issue notices of violations and implement other enforcement actions under this Article as provided by the City.

(Ord. No. 7573, 2-23-2010)

9-1636 RIGHT OF ENTRY AND SAMPLING

Whenever the City has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Article, the owner or operator shall provide access to the premises at any reasonable time to determine if there exists an actual or potential violation requirements of this Article. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.

The City shall have the right to employ such devices and undertake such an inspection, on or off premises, as are necessary to determine whether the requirements of this Article are met. The inspection may include, but is not limited to the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing staff on alleged violations, and access to any and all facilities or areas within the premises that may have any effect on the discharge.

(Ord. No. 7573, 2-23-2010)

9-1637 – 9-1642 RESERVED

DIVISION V. ENFORCEMENT

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.

(Ord. No. 7573, 2-23-2010; Ord. No. 8131, 3-14-2017)

9-1644 ACTION WITHOUT PRIOR NOTICE

Any person who violates a prohibition or fails to meet a requirement of this Article will be subject, without prior notice, to one (1) or more of the enforcement actions identified Section 9-1643 of this Article, when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or potential discharge which presents or may present imminent danger to the environment, or to the health or welfare of persons, or to the MS4.

(Ord. No. 7573, 2-23-2010)

9-1645 OTHER LEGAL ACTION

Notwithstanding any other remedies or procedures available to the City, if any person discharges into the MS4 in a manner that is contrary to the provisions of this Article, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in the County Court. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

(Ord. No. 7573, 2-23-2010)

Appendix B:

Erosion Sediment Controls

SECTION 37
CONSTRUCTION EROSION
CONTROL

12/08/15



STANDARD CONSTRUCTION SPECIFICATIONS

Chapter 37 - CONSTRUCTION ERRSION CONTROL

- 37.00 SCOPE OF WORK
- 37.10 GENERAL
- 37.20 MATERIALS
- 37.30 CONSTRUCTION METHODS
- 37.31 STORM WATER POLLUTION PREVENTION PLAN (SWPPP) and NDEQ PERMITTING:
 - A. Storm Water Pollution Prevention Plan (SWPPP)
 - B. Responsibilities and Duties
- 37.32 LOCATION OF STORM WATER POLLUTION PREVENTION PLAN (SWPPP)
- 37.33 STABILIZATION PRACTICES FOR DISTURBED LAND
- 37.34 STOCKPILES, SIDE CASTING, AND STORAGE OF CONSTRUCTION MATERIALS
- 37.35 STABILIZATION PRACTICES
- 37.36 SEEDING AND SODDING:
- 37.37 STRUCTURAL PRACTICES
 - A. Silt Fence
 - B. Construction Specifications
 - C. Silt Fence Maintenance
 - D. Removal of Silt Fence
 - E. Temporary Sediment Trap
 - F. Rolled Erosion Control Products (RECP) s
 - G. Storm Drain Inlet Protection
 - H. Off- Site Vehicle Tracking
 - I. Washing
 - J. Entrance/Exit Maintenance.
 - K. Concrete Washout
 - L. Erosion Control Maintenance
 - M. General BMP Maintenance
- 37.40 OTHER CONTROLS
 - A. Waste Disposal
 - B. Portable Sanitary Facilities
- 37.41 TIMING OF CONTROLS/MEASURES
- 37.42 MAINTENANCE AND INSPECTION PROCEDURES
 - A. Erosion and Sediment Control Inspection and Maintenance Practices
 - B. Allowable Non- Storm Water Discharges
- 37.43 TIMELY REPAIRS BY CONTRACTOR
- 37.44 SPILL PREVENTION:
 - A. Material Management Practices
 - B. Inventory for Pollution Prevention Plan
 - C. Spill Prevention Control Practices
- 37.90 MEASUREMENT AND PAYMENT
 - A. Measurement and payment
 - B. Silt fence, temporary berms, temporary diversions, and temporary culvert pipe
 - C. Erosion control bales and check
 - D. Sediment traps and sediment basins
 - E. Rolled Erosion Control Products
 - F. Time of Payment for Erosion Control Items
 - G. Failure to perform

37.00 SCOPE OF WORK

Furnish all labor, materials, and equipment required for erecting, maintaining and removing temporary and permanent erosion and sedimentation controls as shown on the drawings and as specified herein.

Permanent erosion and sediment controls include, but are not limited to, sodding, seeding, mulching, watering, and reseeding of all disturbed surfaces, including waste, stockpile, borrow, staging, and storage area surfaces. Work shall be scheduled to minimize erosion. Interceptors shall be provided at locations that will ensure that erosion during construction will be either eliminated or maintained within acceptable limits.

Temporary sedimentation controls include, but are not limited to; silt dams, traps, barriers, diversion structures and appurtenances at the foot of sloped surfaces which will ensure that sedimentation pollution will be either eliminated or maintained within acceptable limits.

The CONTRACTOR is responsible for providing and maintaining effective temporary erosion and sediment control measures during construction or until final controls become effective. The CITY ENGINEER or authorized representative will determine whether the controls are properly utilized.

The CONTRACTOR shall be responsible for placement and maintenance of erosion and sedimentation controls. During construction, the CONTRACTOR shall place controls in locations required by the Erosion and Sediment Control Plans and SWPPP or other sections of the construction documents. If during the course of construction the CITY ENGINEER or authorized representative determines additional controls are required, the CONTRACTOR shall furnish, install and maintain additional controls to control erosion and sedimentation to the satisfaction of the CITY ENGINEER or authorized representative. Additional erosion control measures not included in the construction documents shall be paid for at unit bid prices. If specific unit bid price is not identified in the bid or specification the items will be paid for at negotiated prices.

All procedures and requirements contained in the SWPPP documents apply to all general and subcontractors onsite. It is the responsibility of the General contractor to implement, inform, require, and enforce all aspects and procedures of the SWPPP be followed.

The CONTRACTOR shall implement erosion control measures as may be required by local, state and federal agencies, whether included in the construction documents or not. Additional erosion control measures not included in the construction documents shall be paid for at unit bid prices. If specific unit bid price is not identified in the bid or specification the items will be paid for at negotiated prices.

37.10 GENERAL

Temporary measures shall be applied throughout the construction period to control and to minimize sediment discharge to adjacent properties and waterways. Such measures shall include, but not be limited to, the use of berms, gravel or crushed

stone, mulch, slope drains, check dams, water bars, silt fence and other methods. These temporary measures shall be applied to erodible material exposed by any activity associated with the construction of the project and shall be implemented according to the Storm Water Pollution Prevention Plan (SWPPP). The appropriate combination of Best Management Practices (BMPs) will be used at all development areas until construction is complete and all bare soil is stabilized with perennial vegetation or impervious cover. Some of the common BMPs may not be appropriate for all areas of construction.

Erosion control systems shall be located as required by the SWPPP, erosion control plan, and specifications, and/or as designated by the ENGINEER or authorized representative. All items included within this section will be considered incidental to the project unless otherwise noted.

37.20 MATERIALS

Erosion and Sediment control products shall be in compliance with the current NDOR Approved Products List developed by the Roadside Stabilization Unit or otherwise approved by the CITY ENGINEER or authorized representative.

The City of Kearney recognizes that new products can become available throughout the year. Any new or proposed products shall be reviewed and approved by the City Engineer prior to their use.

37.30 CONSTRUCTION METHODS

All erosion and sediment control or related products should be installed in accordance with the manufactures requirements and the City of Kearney specifications.

37.31 STORM WATER POLLUTION PREVENTION PLAN (SWPPP) and NDEQ PERMITTING:

A. Storm Water Pollution Prevention Plan (SWPPP) - The NDEQ General Permit requires all dischargers where construction activity disturbs one acre or more, to develop and implement a Storm Water Pollution Prevention Plan (SWPPP) which specifies Best Management Practices (BMPs) that will reduce all construction pollutants from contacting stormwater and with the intent of keeping all products of erosion from moving off site into receiving waters. It should be understood that the intent of the SWPPP is to address as many know issues, and anticipated control needs as possible. However, the SWPPP shall be considered a working document and one that will be changing and updated as site conditions warrant.

B. Responsibilities and Duties - The developer/owner will be required to follow NDEQ regulations to obtain all required permitting. It will also be the responsibility of the Owner to develop a SWPPP, implement a SWPPP, maintain the SWPPP, and close out all state permits. The requirements outline by the NDEQ under the NPDES programs will be the responsibility of the developer/owner. Contractors and subcontractors working on state permitted construction projects will be responsible for following all requirements of the Storm Water Pollution Prevention Plan (SWPPP) and all requirements of the NDEQ General NPDES Permit Number NER110000 for Storm Water Discharges from

Construction Sites to Waters of the State of Nebraska. A copy of the CSW-NOI must be submitted to the City of Kearney, Public Works Department.

The Owner of any construction project must identify a SWPPP Coordinator that will be responsible for all reporting, maintenance, inspection, and modifications to the SWPPP. This individual will help ensure compliance with state permitting requirements. This will also be the individual that will be contacted to view the SWPPP and with any stormwater concerns.

General Contractors will be required to sign the SWPPP documents in conjunction with the contract documents to ensure all parties are aware of the shared responsibilities of the SWPPP.

All developments one acre and larger, or less than one acre but part of a large common plan of development are responsible for obtaining and complying with all State of Nebraska stormwater related permits. For application requirements see NDEQ permit NER110000.

- 37.32 LOCATION OF STORM WATER POLLUTION PREVENTION PLAN (SWPPP) -** The CONTRACTOR will be responsible for providing a secure, watertight location to be used as the central storage area for all documentation related to the SWPPP. The contractor will be responsible for posting required signage and information in accordance with the Construction Storm Water General Permit NER110000 Part III, Section K, Paragraph 2a-2b.

A copy of the SWPPP (including a copy of the permit), CSW-NOI, and the letter from NDEQ notifying you of the receipt of the complete and accurate CSW-NOI must be retained at the construction site or other location easily accessible during normal business hours.

- 37.33 STABILIZATION PRACTICES FOR DISTURBED LAND -** Stabilization Practices for Disturbed Land - Preserve existing vegetation where possible and revegetate disturbed areas as soon as practical after grading.
1. Except as provided below, stabilization measures must be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.
 - i. Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.
 - ii. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days, temporary seeding stabilization measures do not have to be initiated on that portion of the site.
 - iii. In areas where restrictions are placed on planting times due to the drought season and initiating perennial vegetative stabilization measures are not currently allowed per these specifications within 14 days after construction activity has temporarily or permanently ceased, temporary stabilization methods shall be used and final vegetative stabilization measures must be initiated as soon as practicable.

2. Stabilize all inactive disturbed land in riparian areas within seventy- two (72) hours.
3. Stabilize areas within 14 days after final grading on any portion of the site.
4. Stabilize areas in accordance with the erosion and sediment control documents and these specifications.

37.34 STOCKPILES, SIDE CASTING, AND STORAGE OF CONSTRUCTION

MATERIALS - Whenever possible, store construction and side-cast material away from and outside riparian areas. Locate temporary stockpile area where exposed soils and runoff will have minimal or no impact on surface water(s). All stockpile/storage areas shall be properly selected and protected with a secure silt fence properly installed and maintained to minimize impact to the surface water(s) or by measures describe in the SWPPP documents.

Structural practices shall be used to control erosion and trap sediment from all stockpile areas remaining disturbed for more than 14 days. Structural practices shall be functional throughout earth disturbing activity until area is restabilized. Structural practices shall be implemented as the first step of grading and within 7 days from the start of construction. Acceptable structural practices will be found on the erosion and sediment control plans and within the SWPPP documents.

1. Use sediment barriers to protect adjacent properties and water resources from sediment transported by sheet flow (i.e. properly designed, placed and maintain erosion and sediment control BMPs).
2. Prevent sediment from entering storm drain systems.
3. Divert runoff from disturbed areas and steep slopes.
4. Stabilize channels and outfalls from erosive flows according to the erosion and sediment control plans.
5. All stockpile areas remaining disturbed for more than 14 days must follow temporary seeding requirements, unless otherwise protected by approved methods.

37.35 STABILIZATION PRACTICES - Disturbed portions of the site where construction activity permanently ceases shall be final graded and stabilized with permanent vegetation, no more than 14 days after the construction activity has ceased. Permanent stabilization shall be done as the project progresses in a phased manner and in accordance with SWPPP documents.

37.36 SEEDING AND SODDING: - Seeding and sodding for erosion control shall be in accordance with the materials and requirement of Chapter 33 and this chapter.

37.37 STRUCTURAL PRACTICES

A. Silt Fence - Silt fence should only be installed on the contour, never down slope. Silt fence should be installed in accordance with the City of Kearney standard details. Where two sections of silt fence meet, overlap the two sections and roll splice them together. Erosion control products should always be installed in accordance with the manufacturer's instructions and specifications, and properly inspected and maintained. Silt fence should be installed where sheet flow runoff can be stored behind the barrier without damaging the barrier or the submerged area behind the barrier. Silt fence should not be installed across streams, waterways, or other

concentrated flow areas. All silt fence must be installed in accordance with the City of Kearney standard detail.

B. Construction Specifications - Silt fence should be placed on the contour. On slopes with grades greater than 7%, the silt fence should be located at least 5 to 7 feet beyond the base. Turn the ends of the silt fence upslope in a "J" hook pattern so that a certain depth of stormwater may be retained in front of the silt fence. The impounded depth should be at least 12 inches, but no more than the height of the silt fence. The bottom edge of silt fence must be entrenched and backfilled to be effective.

The silt fence should be purchased in a continuous roll cut to the length of the barrier to avoid the use of joints. When joints are unavoidable, filter cloth should be spliced together only at a supporting post, with a minimum 18-inch overlap, and securely sealed.

C. Silt Fence Maintenance - Sediment should be removed once it has accumulated to one-half the original height of the barrier. Filter fabric should be replaced whenever it has deteriorated to such an extent that the effectiveness of the fabric is reduced. Silt fence should remain in place until disturbed areas have been permanently stabilized. All sediment accumulated at the fence should be removed and properly disposed of before the fence is removed.

D. Removal of Silt Fence - Some silt fencing may be considered temporary which will allow it to be removed before the contractor leaves the project. During final site inspection the contractor will be informed of what fencing needs to be left in-place and what fencing may be removed.

E. Temporary Sediment Trap - Sediment should be periodically removed from the trap to maintain the required volume. Sediment from sediment traps or sedimentation ponds must be removed when design capacity has been reduced by 50 percent. Sediment traps must be removed after the contributing drainage area is stabilized. Inspection of temporary sediment traps should be performed according to the Storm Water Pollution Prevention Plan.

F. Rolled Erosion Control Products (RECP) s - RECPs will be installed as indicated on the construction plans. RECPs will be firmly anchored by means of trenching, anchor slots, stakes and/or staples. RECPs should always be installed and anchored according to the manufacturer's instructions and detailed specifications.

G. Storm Drain Inlet Protection – Placing barriers in front of an inlet should only occur when "sump" conditions exist. Blocking an inlet located on a continuous grade may divert runoff around an inlet and cause downstream flooding. Curb and gutter containment may be used when inlet is located on a grade. A gap must exist between the barriers and curb in front of the opening. Be aware of runoff entering an inlet from behind the structure. Inlet protection may be constructed on natural ground surface, on an excavated surface, or on machine compacted fill. The appropriate type of inlet protection will be chosen by the engineer and called out on the erosion and sediment control plan. Inspections of erosion control measures should be made before anticipated storm events and within 24 hours after storm events.

H. Off- Site Vehicle Tracking - Stabilized construction entrances will be provided to help reduce offsite vehicle tracking of sediments. Construction entrances

should be made of non-erodible material, typically rock of 2" diameter (do not use river rock or other smooth rock). The paved street adjacent to the site entrances will be swept regularly to remove any access mud, dirt or rock tracked from the site. The exit should be located wherever traffic will be leaving a construction site directly onto a public roadway. Dump trucks that haul material from the construction site will be covered by a tarpaulin. Exit shall be installed in accordance with the City of Kearney standard details.

I. Washing - If the action of the vehicle traveling over the gravel pad does not sufficiently remove the material, the tires should be washed prior to exit onto public roadways. When washing is required, the wash rack should be designed for the anticipated traffic loads and placed on level ground, on a pad of coarse aggregate. The wash rack design may consist of other materials suitable for truck traffic that remove mud and dirt. The wash rack should have provisions that intercept the sediment-laden runoff and direct it into a sediment trap or sediment basin.

J. Entrance/Exit Maintenance - The exit should be maintained in a condition that will prevent tracking or flow of material onto public rights-of-way. This may require periodic top dressing with fresh stone, as conditions demand, and repair and/or cleanout of any structures to trap sediment. All materials spilled, dropped, washed, or tracked from vehicles or site onto roadways or into storm drains must be removed immediately.

K. Concrete Washout - Concrete washout areas must be designated on the construction drawings. The Contractor will be responsible for designating the concrete washout areas. The contractor will also be responsible for constructing the containment area for the washout, and the removal of all wash materials at the completion of the project. All concrete wash material must be contained and disposed of properly.

L. Erosion Control Maintenance - The contractor shall perform inspection of the BMP application. The appointed SWPPP Coordinator will perform regularly scheduled erosion and sediment control inspections as stated in the SWPPP. Any areas that have washed out due to high stormwater flows should be reconsidered for different BMP use, or at least retreated. Areas that have been disturbed by blowing wind should be retreated. Maintenance needs identified in inspections or by other means shall be accomplished before the next storm event if possible, but in no case more than seven days after the need is identified.

All control measures must be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the Engineer or representative must modify the control for site situations as soon as practicable.

M. General BMP Maintenance - Maintenance needs identified in inspections or by other means should be accomplished before the next storm event if possible, but in no case more than 48 hours after the need is identified.

Sediment must be removed from all BMPs after every rain storm, but no later than once ½ the capacity of the BMP is reached. All BMP maintenance shall be done in accordance with the SWPPP documents and all manufactures recommendations.

37.40 OTHER CONTROLS

A. Waste Disposal - No solid or liquid waste shall be disposed of on-site or discharged in storm water runoff. The contractor will be required to provide the proper disposal containment unit to the project. The containment unit (i.e. covered dumpster, dump truck with tarp) must be maintained by the contractor in order to prevent waste from leaving the project site.

B. Portable Sanitary Facilities - All sanitary facilities must be secured in place by means of tie downs, or adequate weight to hold them in a fixed upright position as to prevent the discharge sanitary waste onto the ground. All portable sanitary facility practices must comply with applicable state and local waste disposal, sanitary sewer or septic system regulation. Locate all portable sanitary facilities as far from watercourses and drainage structures as possible, but at no time shall they be placed within 10' of the curb and gutter.

37.41 TIMING OF CONTROLS/MEASURES

Construction entrances will be constructed and stabilized prior to clearing or grading of any other portion of the site, when called for in the erosion control plans or the SWPPP. Temporary structural controls will also be installed throughout the project prior to the commencement of site disturbance for construction. Areas where construction activity temporarily ceases for more than 14 days will be stabilized with temporary controls, as approved by the CITY ENGINEER. Once construction activity ceases permanently in an area, that area shall be stabilized with permanent seeding and erosion control blankets as directed in the plans. After the entire site is stabilized, any sediment that has accumulated will be removed and embankments re-seeded as necessary. After all permanent stabilization measures have been completed, temporary structural measures will be removed and any disturbed areas will be repaired.

37.42 MAINTENANCE AND INSPECTION PROCEDURES

A. Erosion and Sediment Control Inspection and Maintenance Practices - SWPPP site inspections will include all areas of the site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors will look for evidence of, or the potential for, pollutants entering the storm water conveyance system. Erosion and sediment control measures identified in the SWPPP must be observed to ensure proper operation. Discharge locations must be inspected to ascertain whether control measures are effective in preventing significant impacts to waters of the state, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.

1. All control measures will be inspected at least once every 14 days or following a rain event of 0.5" and greater as detailed in the SWPPP.
2. All measures will be maintained in good working order; if a repair is necessary, it shall be initiated within 48 hours of the report.
3. Maintenance to all structural erosion and sediment control BMP's will be done in accordance with Section 37.37, manufacture requirements and all Detailed Specifications.

4. Temporary and permanent landscaping, sodding and /or seeding and mulching will be inspected for bare spots, washouts and healthy growth.
5. Inspect riprap outlet structures after rainfall exceeding 0.5 inches to see if any erosion around or below the riprap has taken place or if stones have been dislodged. Immediately make all needed repairs to prevent further damage.
6. The owner shall designate personnel know as the SWPPP Coordinator who will be responsible for inspections, maintenance and repair activities, and for filling out the inspection and maintenance report. These personnel shall be qualified in all inspection and maintenance practices necessary for keeping the erosion and sediment controls used onsite in good working order. Responsibility for all areas of erosion and sediment control will be located in the SWPPP.

B. Allowable Non- Storm Water Discharges –You are authorized for the following non-storm water discharges.

1. Discharges from fire-fighting activities;
2. Fire hydrant flushing;
3. Water used to wash vehicles where detergents are not used;
4. Water used to control dust;
5. Potable water including uncontaminated water line flushing;
6. Routine external building wash down that does not use detergents;
7. Pavement wash waters where spills or leaks of toxic or hazardous material have not occurred (unless all spilled material has been removed) and where detergents are not used;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated ground water or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents; and
11. Landscape irrigation.

37.43 TIMELY REPAIRS BY CONTRACTOR - The general contractor will have forty-eight (48) hours to complete repairs and/or additions to any stormwater BMP. Preceding inspections done by the Stormwater Program Manager or appointed representative the contractor will be informed of any maintenance or additional sediment controls that may require repair or installation. Any delay in the replacement or maintenance of nonfunctional BMPs beyond seven (7) calendar days shall be documented in the SWPPP with sufficient detail as to explain the reason for the delay.

37.44 SPILL PREVENTION

A. Material Management Practices - The following material management practices will be used to reduce the risk of spills or other accidental exposure of materials and substance to storm water runoff.

1. Only enough products required for the job will be stored onsite.
2. All materials stored onsite will be in a neat and orderly manner in their appropriate containers and, if possible, under a roof or other enclosure.
3. Products will be kept in their original containers with original manufacturer's label.
4. Substances will not be mixed with one another unless recommended by the manufacturer.
5. All of a product will be used up before disposing of container whenever possible.
6. Manufacturer's recommendations for proper use and disposal will be followed.

7. The site superintendent will be responsible for assuring the proper use, storage and disposal practices are followed.
8. All fuels, oils, and liquid chemicals will be stored in a designated area. This area will be located in an area least likely to allow release of stored chemicals. All materials stored onsite will be surrounded with proper double containment systems.

B. Inventory for Pollution Prevention Plan - The materials or substances expected to be present onsite during construction will be listed in the SWPPP, along with Best Management Practices to address them. The general contractor must provide this list to be added to the SWPPP.

C. Spill Prevention Control Practices

1. Manufacturer's recommended methods for spill cleanup will be clearly posted by the contractor using materials and site personnel will be made aware of the procedures and the location of the information and cleanup supplies.
2. Materials and equipment necessary for spill cleanup will be kept onsite.
3. All spills will be cleaned up immediately after discovery.
4. The spill area will be kept ventilated & personnel will wear appropriate protective clothing.
5. The contractor, who is responsible for the day- to- day onsite construction operations, will be responsible for spill prevention and cleanup and will assign other personnel as needed. It will be the contractor's responsibility to implement the proper spill prevention plan and keep up to date with all training, reporting, and associated practices. All significant spills must be reported to the Stormwater Pollution Prevention Manager.
6. The contractor must submit a spill prevention plan for all materials to be used during construction to the City of Kearney. The plan must include procedures to be used in the event of a spill. All employees must be made aware of spill prevention procedures. All parts of the spill prevention implementation, training, and reporting will be the responsibility of the contractor and considered incidental to the project. The spill prevention plan will be submitted prior to the issuance of the Notice To Proceed.
7. The Spill Prevention Plan will be adjusted to include measures to prevent a particular type of spill from re-occurring. A description of each spill, what caused it, and the cleanup measures will be included.

37.90 MEASUREMENT AND PAYMENT

A. Measurement and payment - The following methods of measurement and payment to the Contractor will be used on all projects Owned and let by the City of Kearney unless otherwise specified in the Detailed Specifications. Items not specifically listed in the Bid or defined by this specification shall be considered subsidiary to construction and direct payment will not be made for these items.

B Silt fence, sediment logs, temporary berms, temporary diversions, and temporary culvert pipe - Measurement and payment for silt fence, sediment logs, temporary berms, temporary diversions, and temporary culvert pipe will be measured by length in lineal feet constructed and accepted. Payment will include full compensation for furnishing materials, installation, maintenance, removal and disposal.

C. Erosion control bales, silt checks and inlet protection structures -

Measurement for payment of erosion control bales, silt check dams and inlet protection structures will be by the unit constructed and accepted. The unit cost will include installation, maintenance and removal of the BMP.

D. Sediment traps and sediment basins -

Sediment traps and sediment basins will not be measured for payment but will be paid for on a lump sum basis. Payment will include all work associated with excavation and embankment required to construct sediment traps and sediment basins. Payment will include full compensation for furnishing materials, installation, maintenance, removal and disposal.

E. Rolled Erosion Control Products -

Measurement for payment of Rolled Erosion Control Products will be by the square yard. The quantity of RECP will be determined by the square yard from actual slope measurement of the area covered by the erosion control blanket. Payment will include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in installing RECP blankets, complete in place, including furnishing and applying pure live seed, commercial fertilizer, and the materials for the erosion control blanket, as shown on the plans, as specified in the Standard Specifications and these special provisions, and as directed by the Engineer.

F. Time of Payment for Erosion Control Items -

Progress payment for erosion control measures will be as follows: (1) 75 percent of the unit price for each item will be paid upon installation and approval; and (2) 25 percent of the unit price for each item will be paid when the temporary erosion control measures are removed from the project.

G. Failure to perform -

In the case of repeated failures on the part of the Contractor in controlling erosion, sedimentation, maintenance to BMP's or water pollution, the City Engineer reserves the right to employ outside assistance or to use City forces to provide the necessary corrective measures. Such incurred direct costs, plus project engineering costs, will be charged to the Contractor, and appropriate deduction will be made from the Contractor's monthly progress estimate.

Appendix C:

DRT Description

Development Review Team (DRT)

The City of Kearney has a progressive group of staff available to review projects. The DRT works with project representatives to identify opportunities and resolve potential issues before plans are finalized. This process saves you time and money.



Idea:

Attendees present an overview, location, and any concerns of their project. Complete development plans are not necessary for the initial meeting however, assistance from architects, civil engineers, etc. assist in creating the most efficient project possible.



Meeting:

Every Thursday 9 a.m.
Deadline Monday prior- If possible submit any support information (drawings, plans, etc.)



What's Covered:

Staff can provide insight into zoning, platting, site plan, traffic, stormwater, emergency access, fire hydrants, water, sewer, refuse, assessments, electrical service, building plans, landscaping, park facilities, trails, and overall general assistance.



Additional Meetings:

Applicants can request additional meetings as projects progress. The DRT is here to serve you.



Progress:

The DRT provides the best possible customer service by maintaining close contact with the project representatives, by providing thorough review and feedback on every major proposed project, and by working to resolve issues at the earliest possible stage of development.



Solution:

Staff provides professional recommendations to the Planning Commission and City Council. The DRT assures projects are properly reviewed. Exceptional development results come from committed teamwork between the development community and City staff.

CONTACT:

Nancy Eckhoff - DRT Coordinator
308-233-3227
neckhoff@kearneygov.org



We provide services, solutions, and opportunities for our community.

Appendix D:

Individual Lot Notice of Intent



**Individual Lot
Notice of Intent (NOI)
For Coverage under the Federal Clean Water Act**
For Construction Activity that is Part of a Larger Common Plan of Development or Sale

Office Use Only Construction Stormwater Permit # _____ Received By _____

Submission of this form supersedes any prior Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) for the lot indicated in the application and fulfills the notification and discharge authorization procedures for individual lots, as required by Kearney Municipal Code, Ordinance No. 7573, Article 16, Chapter 9 Construction and Post-Construction Stormwater Code. The applicant assumes sole responsibility for the building phase of development for this lot.

At the time of application, 2 copies of this form are required:
One copy will be retained by the City of Kearney; One copy will be retained by the Applicant

I. Applicant Information

Name of Applicant: _____ Legal Interest in the Land: _____
Company Name: _____
24-hour Contact Person: _____ Phone: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Lot Owner (if different from Applicant)
Name: _____ Phone: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____

II. Legal Description

Name of Subdivision: _____ Lot No.: _____ Block No.: _____
Construction Site Address: _____
City: _____ State: _____ Zip Code: _____

III. Construction Activity Information

Estimated Start Date	Estimated Completion Date	Estimated Disturbed Acreage
_____	_____	_____

IV. Certification

I certify under penalty of law, that I am familiar with and agree to comply with the terms and conditions provided in this Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) and that I am solely responsible for the individual lot covered by this NOI and SWPPP. I understand that the City of Kearney is authorized to inspect the site at reasonable times pursuant to Kearney Municipal Code, Chapter 9, Article 16.

Signature: _____ **Date:** _____



**Building Phase of Development
Individual Lot SWPPP
(Stormwater Pollution Prevention Plan)
For Coverage under the Federal Clean Water Act**

For Construction Activity that is under one acre and Part of a Larger Common Plan of Development or Sale (subdivision).

Initial on each line to indicate that you have read and understand the following:

1. ____ I have used: Site Plan A Site Plan B Site Plan C My Own Site Plan (select one), annotated as needed, in order to fulfill the SWPPP requirements set forth in Kearney Municipal Code, Chapter 9, Article 16.
2. ____ All BMPs will be constructed, installed, and maintained according to the minimum standards and specifications set forth in either the City's ESC Manual, the NPDES States General Permit, or in accordance with locally-approved technical standards, specifications and guidance for construction activity, and will be in place and in working order prior to any construction activity.
3. ____ BMPs will be installed, operated and maintained to protect public ROW, streams, rivers, ponds, and wetlands from sedimentation and a spill prevention plan will be followed for any spills or illicit discharges that may leave the site.
4. ____ Proposed BMPs are shown on the attached Site Plan. The construction details, application schedule, procedures, operations, and maintenance of the proposed BMPs shall be in conformance with locally approved standards.
5. ____ If applicable, any features of the site that are vulnerable to erosion, as well as BMPs implemented for these features are shown on the attached Site Plan.
6. ____ All BMPs will be inspected by qualified personnel at least once every fourteen calendar days during active construction and within twenty-four hours after any storm event greater than 0.5 inches during a 24-hour period. Any necessary repairs or clean-up to maintain the effectiveness of the BMPs shall be made within 72 hours and/or prior to the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation will be documented in the Site Plan and alternative BMPs will be implemented as soon as possible.
7. ____ Sediment deposited into or upon any street, alley, sidewalk, public way, storm drainage system, or public ground will be removed within 48 hours. A contingency plan will be implemented for unforeseen erosion or sediment problems, including emergency situations caused by storms.
8. ____ Following any construction activity, final or temporary stabilization shall be completed as soon as practicable, but in no case more than fourteen days, to the surface of all perimeter controls, topsoil stockpiles, and any other disturbed or graded areas on the project site which are not being used for material storage, or on which actual construction activity is not being performed.
9. ____ Either the lot will be stabilized by the builder at the end of construction, or the homeowner will be informed in writing of the need for final stabilization.
10. ____ This form must be available on the construction site.

Appendix E:

SWPPP Inspection Form

NPDES Construction Site Compliance Evaluation Form

General Information			
Project Name			
NPDES Tracking No.	NER	Location	
Date of Inspection		Start/End Time	
Inspector's Name(s)	Office:		Cell:
Type of Inspection: <input type="checkbox"/> Regular <input type="checkbox"/> Pre-storm event <input type="checkbox"/> During storm event <input type="checkbox"/> Post-storm event			

Rainfall Event	Date Began	Duration (Hours)	Amount (Inches)	Rainfall Event	Date Began	Duration (Hours)	Amount (Inches)	Rainfall Event	Date Began	Duration (Hours)	Amount (Inches)
1				2				3			

Overall Site Issues

SWPPP INFORMATION	YES	NO	N/A	COMMENTS
1. Is a sign or other notice posted at a publicly accessible location near the active part of the construction project?				
➤ Is a copy of the permit attached?				
➤ Is the current location of the SWPPP and names and telephone numbers of a contact person for scheduling viewing times shown?				
2. Does a copy of the SWPPP and accompanying sediment and erosion control drawings exist on the construction site, or upon request?				
➤ Is the discharge permit on the construction site or available upon request?				
➤ Is the discharge permit NOI posted on the construction site?				
➤ Are the SWPPP and/or accompanying sediment and erosion control drawings updated and documented?				
3. Do inspection records exist on the construction site or upon request?				
➤ Has the frequency of inspections occurred as specified in the SWPPP?				
➤ Have all previous inspection items been addressed and documented within seven (7) calendar days after an inspection?				
4. Do climatic records exist since the last inspection?				
BMP/Housekeeping Information				
5. Are offsite flows entering the construction site?				
6. Is there evidence of, or the potential for, increased pollutant (e.g., sediment, fuel, concrete waste, portable toilet waste, etc.) loading to enter the stormwater conveyance system due lack of maintenance or improper BMP installation?				If yes, see attached report.
7. Do installation, repair and/or maintenance of sediment control BMPs need to occur?				If yes, see attached report.
8. Do installation, repair and/or maintenance of erosion control BMPs need to occur?				If yes, see attached report.
9. Is there evidence of sediment discharging off the construction site and onto downstream locations?				If yes, see attached report.
10. Are vehicles tracking sediment off the construction site?				If yes, see attached report.
11. If applicable, is soil, construction material, landscaping items, or other debris evident on the streets?				If yes, see attached report.
12. Do locations exist where consideration of installing additional BMPs not found in the SWPPP should occur?				If yes, see attached report.
13. Do locations exist where consideration of removing existing BMPs identified and shown in the SWPPP can occur?				If yes, see attached report.
14. Does your site evaluation indicate a need to possibly update and document the SWPPP report and accompanying sediment and erosion control drawings within the next seven (7) days?				If yes, see attached report.

DETAILED REPORT: IDENTIFY THE PROBLEM AND ITS LOCATION. IF APPROPRIATE, DESCRIBE (IN GENERAL TERMS) WHAT NEEDS TO BE COMPLETED. HOWEVER, ONLY IF QUALIFIED (E.G., YOU ARE A DESIGNER) SHOULD YOU BE MANDATING SPECIFIC BMPS TO INSTALL.	DATE COMPLETE & RESPONSIBLE PERSON
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

NOTES:

 (Print Inspector Name) (Signature) (Date)
 Title/Qualification of the Inspector: _____

 (Print General Contractor Name) (Signature) (Date)
 Title: _____

To be signed only when no incidents of non-compliance conditions are identified by this report: I certify the construction sit is in compliance with the SWPPP and any accompanying discharge permit.

 (Print Name) (Signature) (Date)
 Title or Position: _____

Appendix F:

Enforcement Response Plan



CITY OF KEARNEY
ENFORCEMENT RESPONSE PLAN
January 2010

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INTRODUCTION

Under the terms of 40 CFR Part 122.34(b)(4)(ii), the City of Kearney is required to develop and implement adequate enforcement authority for construction activity that takes place within the boundaries of the Municipal Separate Storm Sewer System (MS4). The purpose of this Enforcement Response Plan is to communicate how the enforcement tools available to the City will be used to achieve compliance. The Enforcement Response Plan also specifies criteria by which City personnel can determine the enforcement action most appropriate to instances of non-compliance. This plan is a document of the City's procedure to be followed when a construction stormwater violation is discovered.

The procedures are developed with the following objectives in mind:

- The City is not responsible for enforcing the Nebraska Department of Environmental Quality Construction Stormwater Permit.
- Prevent pollutants from entering the MS4 and causing environmental harm.
- Ensure that violators return to compliance in a timely manner.
- Communicate definitions for non-compliance.
- Penalize non-compliant construction site operators for violations.
- Provide equitable and consistent enforcement actions to the extent possible.
- Deter non-compliance through education and compliance assistance first and, if necessary, penalties second.
- Recover costs incurred by the City due to construction site operator non-compliance.

Nothing in this plan shall affect the City of Kearney's authority to bring enforcement actions for violations pursuant to any portion of the Municipal Code.

ACRONYMS

The following acronyms shall have the following meaning:

AF	Administrative Fine
AO	Administrative Order
CA	City Attorney
CM	City Manager
ESC	Erosion and Sediment Control
JA	Judicial Action
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
NOI	Notice of Intent
NOV	Notice of Violation
PC	Personal Contact or Phone Conversation
STOP	Stop Work Order
SWPM	Storm Water Program Manager
SWPPP	Storm Water Pollution Prevention Plan

ENFORCEMENT RESPONSE GUIDE

1.0 FUNCTIONS OF GUIDE

This guide serves two main functions:

- Establish appropriate enforcement action based on the nature and severity of the violation.
- Promote consistent and timely use of enforcement remedies.

The enforcement process consists of three basic steps:

- Identify the violation
- Determine if the violation is significant or non significant.
- Select the appropriate response.

Section 2 explains how to determine whether a violation is significant or non significant.

Section 3 outlines the types of responses.

Section 4 discusses the various enforcement responsibilities for City of Kearney personnel.

Section 5 describes the type of violations and ranges of enforcement actions for each.

Section 6 summarizes the time frames associated with various aspects of violations and enforcement actions.

2.0 CRITERIA TO DECIDE TYPE OF VIOLATION

The enforcement process begins by identifying a construction site operator's violation. Once a violation is identified it must be determined whether the violation should be considered significant or non-significant. Next, the most appropriate response is determined. Each violation must be documented even if the decision is to take no action. Documentation must explain why such action was/was not taken.

To determine if a violation is significant or non-significant the following criteria must be considered:

2.1 Magnitude

Generally, a minor isolated instance of non-compliance can be considered non-significant and dealt with by informal responses, such as a Personal Contact or Phone Conversation (PC) or notice of violation (NOV).

However, some isolated incidents may cause damage to the MS4 and/or the health and welfare of the public and city personnel. Situations like these would be significant and necessitate a formal enforcement action such as a Stop Work Order (STOP) or an Administrative Order (AO).

2.2 Duration

The construction site operator will be subject to escalated enforcement actions if violations, regardless of severity, continue over prolonged periods of time. Chronic violations and/or failures to comply with administrative orders will be considered significant violations and may result in enforcement actions including, but not limited to, termination of permits, fines and/or court orders.

2.3 Effect on the Environment

One objective of Chapter 9, Article 16 of the municipal code is to prevent pollutants from entering the MS4 and/or entering a receiving waterbody and causing environmental harm. Environmental harm will be presumed whenever a construction site directly discharges pollutants into an adjacent receiving waterbody or fails to implement BMPs that prevent sediment from leaving the site and entering the City's MS4. These violations will be considered significant.

At a minimum, responses to these circumstances require issuance of an Administrative Order (AO) and possible issuance of Administrative Fines (AF).

2.4 Compliance History of the Operator

The construction operator's compliance history will be an important factor in determining the appropriate remedy to apply. The city has the authority to issue informal notices for the less severe violation if the violator has a good compliance history.

Recurring violations by a construction operator may indicate that their treatment system is inadequate or that the operator has taken a casual approach to operating and maintaining its treatment system.

Chronic compliance problems such as late reports, lack of treatment controls or other missing program elements indicate a disdainful attitude and the possibility of future significant violations.

2.5 Good Faith of the Operator

'Good Faith' is defined as the operator's honest intention to remedy its non-compliance evidenced by actions which give support to this intention. Good faith shall be demonstrated by cooperation and completion of corrective measures in a timely manner. Compliance with a previous enforcement order is not in itself necessarily good faith.

The construction site operator's good faith in correcting its noncompliance is a factor in determining which enforcement response is suitable. However, good faith does not eliminate the construction site operator from enforcement action. For example, if the City must pay to install necessary Erosion and Sediment Control (ESC) measures, it should recover its costs regardless of prior good faith.

Once the severity of the violation is determined, it will then be necessary to initiate the proper response.

3.0 TYPES OF RESPONSES

There are three types of enforcement responses:

Informal - may be a telephone contact, personal contact, or a notice of violation (NOV) when violations are non-significant or when the construction site operator is cooperative in resolving the problem.

Formal - may be an Administrative Order (AO) or Administrative Fine (AF) when the construction site operator does not promptly undertake Corrective Actions (CA) or has recurring violations.

Judicial - Civil or criminal prosecution when a violation is significant and/or the construction site operator is uncooperative.

The enforcement response selected must be appropriate to the violation. For example, telephone calls are appropriate for late reports or BMPs that need maintenance, but failure to receive approval for construction activity or failing to install BMPs would require a more immediate and stringent response. Knowledge of requirements and intent to cause violation by the construction site operator should be considered when determining the severity of the action to be taken.

3.1 Informal

The City will pursue compliance assistance through multiple, informal methods whenever reasonable. These methods are appropriate for situations where education is needed, violations do not pose a significant danger to human health or the environment, or the City believes that compliance can be achieved by measures described below. Use of informal measures often establishes the documentation trail necessary for formal enforcement action and should therefore be sufficient to support the burden of proof.

3.1.1 Telephone/Personal Notification

Telephone contact or personal contact with the construction site operator may be chosen to obtain information and resolve isolated or infrequent violations. The contact will take place within **24 hours** of determining a violation. Prompt responses will demonstrate to the construction site operator that the city is serious about enforcing construction program requirements. It also helps to deter future violations.

At a minimum, the conversation shall be documented with the following information: date/time call placed; the person contacted, and the substance of the conversation.

3.1.2 Refusal of Municipal Inspections

Required inspections – such as those associated with a building permit or other approved activity – may be refused by the City Inspector when any the following conditions exist:

- the construction site does not have a posted Notice of Intent (NOI),
- perimeter controls are not installed or are dysfunctional, or
- evidence of discharged sediment or other pollutants exists outside the construction area.

At a minimum, the inspector refusing inspections will notify the Storm Water Program Manager of the situation and will document the following information: date/time inspection refused; the party notified on-site, and the substance of the conversation including what specific actions must be taken before the inspection can be conducted.

3.1.3 Notice of Violation (NOV)

The NOV is an official communication from the City to the non-compliant construction site operator which informs the party that a violation has occurred. It is issued for relatively minor or infrequent violations of the ordinance standards and requirements.

The NOV will provide the construction site operator with an opportunity to correct noncompliance on their own initiative rather than according to a schedule of actions determined by the City. It is a prompt response to violations and documents the initial attempts of the City to resolve the noncompliance.

The NOV shall contain the following information:

- the specific violation that has occurred,
- specific actions required to return to compliance, and
- warning that further enforcement action may be taken for failure to comply.

NOV's shall be sent via certified mail/return receipt or hand delivered and signed by a representative of the construction site operator within **three (3) working days** after discovery of the violation.

3.1.4 Stop Work Order (STOP)

The STOP is a notice posted by the City on the construction site which informs the operator that a violation is ongoing and no work is allowed to continue until it is resolved. It is the last tool available to the City before formal enforcement proceedings are taken. The STOP is posted for failure to respond to a NOV or for relatively moderate/significant violations of the ordinance, standards or requirements that require immediate action.

The STOP will require the construction site operator to contact the SWPM to explain what must be completed before work is allowed to continue. The STOP may not be removed by anyone other than a designated representative of the City.

The STOP shall contain the following information:

- the ordinance that has been violated,
- contact information of the SWPM,
- date by which the SWMP must be contacted, and
- warning that failure to comply will result in formal enforcement actions.

3.2 Formal

When required to address willful non-compliance by a construction site operator or immediate threats to human health and the environment, the formal procedures described below can be taken to resolve construction stormwater non-compliance.

3.2.1 Administrative Order

An administrative order will be a formal order issued by the City to the construction site operator in noncompliance. It will direct the construction site operator to undertake corrective measures or cease specified activities.

Consent orders will be issued when the construction site operator has significant discharge violations or failed to comply with other enforcement responses. In some cases judicial proceedings may be more appropriate.

There are four types of administrative orders:

- Compliance orders - A compliance order directs the operator to restore compliance by a specified date. The order will document the noncompliance and state required actions to be completed by the operator and the dates by which the actions must be completed to eliminate the noncompliance.

The city will track the operator's performance to ensure that the operator is making acceptable progress. This will be accomplished by requiring the construction site operator to submit progress reports, conduct monitoring requirements, perform additional site inspections, etc. as necessary to verify compliance is achieved.

Issuance of a compliance schedule does not necessarily relieve the operator of having to meet its existing erosion and sediment control commitments, nor protect the operator from having additional fines levied for other violations during the compliance schedule period.

- Consent Order - The consent order will permit the flexibility of a negotiated settlement between the City and the construction site operator. The order will be comprised of compliance schedules, stipulated fines, or other provisions as deemed necessary, and signatures of City and operator representatives.

The consent order will be used when the operator assumes responsibility for its noncompliance and is willing, in good faith, to correct its cause. The order should address all identified and potential deficiencies in the owner's compliance status.

The order shall not be an admission of liability or a plea of guilty. Additional enforcement actions may be pursued if the operator does not comply with all aspects of the consent order.

- Cease and Desist Order - A cease and desist order shall be used in situations where the non-compliant operator's discharge could result in significant environmental harm or impact human health, safety or welfare.

A cease and desist order may be issued by telephone. A subsequent written order shall be served either in person or by registered mail to the construction site operator. If the operator fails to comply with the order, the City may pursue additional steps to halt the discharge, such as, seeking injunctive relief or blocking the invoking police power.

- Show Cause Order - An order to show cause or directs the operator to appear before the City and explain why more severe enforcement actions should not be taken (e.g.: termination of service). A hearing will be conducted by a designated City representative (i.e. Attorney, City Council or Public Works Director, a hearing officer) or by a review board.

The hearing may be formal or informal and it may be open or closed to the public.

The hearing shall determine if further action is warranted and, if so, its nature and extent.

3.2.2 Fines

An administrative fine is a monetary penalty assessed by the City to the construction site operator for a violation of municipal code, policy and/or standards. The fine may be assessed at the City's discretion and the amount of the fine may be determined on an individual basis.

The fine is considered punitive in nature and is not related to any specific cost borne by the City. The amount of the fine should be proportional to the harm caused by the violation. The City shall also recover damages to its MS4 or for the cost of stabilizing a construction site as stated at Chapter 9, Article 16 of the Municipal Code.

3.2.3 Termination/Suspension

The City has the authority to revoke an approved development plan, building permit and/or other City-issued permit associated with an approved erosion and sediment control plan. These actions may be used against owners that fail to comply with previous administrative orders, or to prevent or stop discharges that are considered to pose an immediate or serious hazard or significant environmental damage.

3.3 Judicial

A judicial action is a formal enforcement action that involves a court. The action may be civil litigation, criminal prosecution, or both.

3.3.1 Civil Litigation

Civil litigation will be used as an appropriate enforcement response to the following situations:

- Injunctive relief is necessary to halt or prevent activities or non-stormwater discharges that threatens human health, the environment or the MS4,
- Efforts to restore compliance through less formal actions have failed,
- The construction site operator fails to pay assessed fines,
- The City determines it needs to recover losses due to the construction site operator's noncompliance.

The following describes three types of civil litigation:

- Consent Decrees are agreements between the City and the construction site operator reached after a lawsuit has been filed. To be binding, the decree must also be signed by the judge assigned to the case.
- Injunctions are court orders which direct parties to do something or refrain from doing something. The City may be forced to seek injunctive relief if the construction site operator refuses to comply with an administrative order or if delays in filing a civil suit would result in irreparable harm to the MS4 or receiving waterbody.
- Civil Suits may be necessary to recover costs borne by the City in responding to the operator's noncompliance.

3.3.2 Criminal Prosecution

Criminal prosecution is a formal process of charging individuals and organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment.

Criminal prosecution is an appropriate enforcement action when there is evidence of willful noncompliance and when criminal negligence or intent can be proven. Some examples of these are altering or falsifying reports, tampering with samples, unauthorized discharges, and violations of administrative orders.

The criminal enforcement process begins when the City has reason to believe crimes have been or will be committed. This information may be gathered during routine inspections or monitoring/sampling activities or in the form of reports from employees or the public. Citations may be issued where it is determined the operator's efforts, or lack thereof, to obtain compliance through less formal actions have failed. If crimes are suspected or known, the Public Works Director shall notify the City Attorney for proper collection of evidence.

4.0 ENFORCEMENT RESPONSIBILITIES

When a construction site operator violation is suspected or discovered, the City Inspector shall be responsible for informal actions such as:

- Identifying and documenting the violation,
- Telephone notification,
- Notice of Violation letter,
- Sampling, monitoring and inspecting,
- Follow up actions.

All significant violations and the responses shall be reported to the Storm Water Program Manager and/or the Public Works Director.

The Public Works Director and City Attorney will be copied on all formal Enforcement Responses. The Public Works Director will consult with the City Attorney and City Manager in Judicial Actions.

5.0 VIOLATIONS AND RANGE OF ACTIONS

The Table 5.1 identifies the most common violations and indicates the potential circumstances associated with each violation. The Recommended Enforcement Response Plan, under a typical situation, is described in three levels of urgency.

Level 1 – Administrative issues with relatively low environmental risk and an infrequent record of violation by the construction site operator should cause the following enforcement sequence: **Personal Contact -> Refusal of Municipal Inspections -> Notice of Violation -> Stop Work Order -> Administrative Order -> Termination/Suspension -> Judicial Action**

Level 2 – Record keeping and site conditions that pose a relatively moderate/significant environmental risk to discharge pollutants into the MS4 or adjacent receiving waterbody should cause the following enforcement sequence: **Personal Contact and Refusal of Municipal Inspections -> Notice of Violation -> Stop Work Order -> Administrative Order -> Termination/Suspension -> Judicial Action with Administrative Fees**

Level 3 – Any immediate threat to human health and environment or demonstrated willful non-compliance by a construction site operator should cause the following enforcement sequence: **Personal Contact -> Notice of Violation -> Termination/Suspension -> Stop Work Order -> Administrative Order with Administrative Fees -> Judicial Action with Administrative Fees**

Table 5.1 Construction Stormwater Violations

NONCOMPLIANCE	CIRCUMSTANCES OF VIOLATION	RECOMMENDED ENFORCEMENT RESPONSE PLAN
Failure to Prepare or Maintain a Storm Water Pollution Prevention Plan or Required Records	Operator is unaware of requirements to complete and maintain a SWPPP.	Level 1
	Operator is aware but does not follow requirements to prepare and maintain a SWPPP.	Level 2
Failure to Install, Maintain or Properly Select Best Management Practices per Approved Plan	Good faith effort has been demonstrated to select, install, and maintain BMPs	Level 1
	Operator has disregarded responsibilities to select, install, and maintain BMPs	Level 2
Conducting Covered Activity without Approval of Erosion and Sediment Control Plan	Operator is unaware of requirements to obtain approval for land disturbance activities.	Level 2
	Operator is aware of requirements to obtain approval for land disturbance activities but has not or has refused.	Level 3
Failure to Perform Inspections or Submit Required/Requested Reports and/or Documents	Infrequent occurrences	Level 1
	Frequent or routine occurrences	Level 2

Pollution Discharge to MS4, Contamination or Degradation of State Waters	Sediment or pollutants have left the perimeter of the construction area due to improper management of BMPs, but have caused little to no environmental damage	Level 2
	Significant accumulation of sediment or pollutants in the MS4 or receiving waterbody that result from improper management of BMPs.	Level 3
Documented Pattern of Systematic Violations of Storm Water Regulations and/or Permit Requirements	The City will consider violations on a project by project basis and an operator basis when determining awareness and good faith efforts.	Level 3

6.0 TIME FRAMES FOR ENFORCEMENT ACTIONS

Every violation must be evaluated to determine the appropriate enforcement response. Initial enforcement responses involving contact with the construction site operator and requesting information or corrective or preventative action will occur within in a timely manner. If the operator shows "good faith" in correcting the violation the City can avoid formal enforcement procedures.

Table 6.1 lists the enforcement responses, the maximum response time, and the person responsible to pursue or be informed of the action taken.

Table 6.1

RESPONSE	TIME FRAME	RESPONSIBILITY
Telephone/personal contact	Within 24 hours of inspection	Development Services Inspector, SWPM
Refusal of Municipal Inspections	Immediate	Development Services Inspector, SWPM
Notice of Violation	Within 3 days of inspection	SWPM
Stop Work Order	After a NOV and prior to AO or AF whenever possible	SWPM, Public Works Director
Administrative Order - Compliance Order - Consent Order - Cease and Desist Order - Show Cause Hearing	Within 60 days of violation	SWPM, Public Works Director, City Attorney, City Manager
Administrative Fine	Within 60 days of violation	SWPM, Public Works Director, City Attorney, City Manager
Termination/Suspension	Within 30 days of violation	SWPM, Public Works Director, City Attorney, City Manager
Judicial Actions	Case by Case	SWPM

GLOSSARY OF TERMS

Administrative Fine - A punitive monetary charge unrelated to actual treatment costs assessed by the City rather than a court.

Administrative Order - A document which orders the violator to perform a specific act or refrain from an act. For example, the order may require operators to attend a show cause meeting, cease and desist discharging, or undertake activities pursuant to a compliance schedule.

Cease and Desist Order - An administrative order directing an industrial operator to immediately halt illegal or unauthorized discharges.

Civil Litigation - A lawsuit filed in a civil court. If the court rules that the defendant construction site operator violated the law the court may impose civil penalties, injunctions or other equitable remedies and/or cost recovery.

Civil Penalty - A punitive monetary award granted by a court to the City against a non-compliant construction site operator.

Compliance Order - An administrative order directing a non-compliant construction site operator to achieve or restore compliance by a date specified in the order.

Compliance Schedule - A schedule of required activities necessary for a construction site operator to achieve compliance with all stormwater program requirements.

Consent Decree - A court supervised settlement agreement, the violation of which may be considered contempt of court.

Consent Order - An administrative order embodying a legally enforceable agreement between the City and the non-compliant construction site operator designed to restore the operator to compliance status.

Criminal Prosecution - A criminal charge brought by the City against an accused violator. The alleged criminal action may be a misdemeanor or a felony and is defined as willful, negligent, knowing, and/or intentional violations. Upon conviction, punishment may include a monetary penalty, imprisonment, or both.

Fine - A punitive monetary charge for a violation of the law. Often used synonymously with "penalty", although the term "fine" generally implies the use of administrative rather than civil (judicial) procedures.

Good Faith Effort or Progress - Prompt and vigorous pollution control measures undertaken by the discharger which shows that extraordinary efforts (not a "business-as-usual" approach) have been made to achieve compliance.

Injunctive Relief - A court order which restrains or compels action by the construction site operator.

Judicial Action - An enforcement action that involves a court. (The action may either be civil or criminal in nature).

Legal Authority - The source of the City's jurisdiction and regulatory powers.

Notice of Violation - A City document notifying a construction site operator that it has violated stormwater standards and requirements. Generally used when the violation is relatively minor and the City expects the violation to be corrected within a short period of time.

Penalty - A monetary or other punitive measure usually associated with a court action. For purposes of this Enforcement Policy, the term is used synonymously with fine.

Plea Bargain - An agreement between the prosecuting attorney and a criminal defendant whereby the defendant pleads guilty to a lesser charge and/or a reduction of sentence in exchange for cooperation in investigating or prosecuting the crime (e.g., waiving a trial).

Show Cause Order - An administrative order directing a non-compliant operator to appear before the City, explain its noncompliance, and show cause why more severe enforcement actions against the operator should not go forward.

Stop Work Order - A notification posted by the City on the construction site of non-compliance warning the non-compliant operator that work is not allowed to continue until the terms of the Notice of Violation have been fulfilled. The Stop Work Order precedes formal enforcement action by the City.

Suspension of Service - A temporary stoppage of the non-compliant operator's services necessary to proceed with the project until specific conditions are met.

Additional definitions of terms may be found at Chapter 9, Article 16 of the Kearney Municipal Code.