

Chapter 14 SANITARY SEWERS AND STORMWATER MANAGEMENT

- Article 1 SANITARY SEWER: DEFINITIONS, SERVICE RATES**
- Article 2 CONNECTION, DISCHARGE INTO, SANITARY SEWER**
- Article 3 PRIVATE DISPOSAL SYSTEM**
- Article 4 STORMWATER MANAGEMENT; UTILITY**
- Article 5 STORMWATER MANAGEMENT REGULATIONS**
- Article 6 ENFORCEMENT; PENALTIES; SEVERABILITY**

Article 1 SANITARY SEWER: DEFINITIONS, SERVICE RATES

- Section 14.1.1 Definitions**
- Section 14.1.2 User Fees, Other Charges**
- Section 14.1.3 Use Charges Assessed Monthly**
- Section 14.1.4 Billing Cycle; Full Payment**
- Section 14.1.5 Residential Payment Options**
- Section 14.1.6 Winter Average Consumption**
- Section 14.1.7 Delinquent Payments**
- Section 14.1.8 Sewer Utility Fund**

Section 14.1.1 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

- (1) Bonds means obligations of the City, for which the principal of and the interest on is paid in whole or in part from special assessments, user fees, sales tax, general ad valorem taxes, or any available City or Stormwater Utility revenues heretofore or hereafter issued to finance the Costs of Capital Improvements.
- (2) Building Drain means that part of the lowest horizontal piping of a drainage system which receives the release or emit from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner-face of the building wall.
- (3) Building Sewer means the extension from the building drain to the public sewer or other place of disposal.
- (4) B.O.D. (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed parts per million by weight.
- (5) Chisholm Creek Utility Authority (CCUA) means that municipal entity of which the City of Bel Aire is a member, by and through an Interlocal Cooperation Agreement, which provides the sewage treatment plant and all associated facilities for the City.
- (6) City Clerk (Clerk) means the City Clerk of the City of Bel Aire, or a designee.
- (7) Combined Sewers means sewers receiving both surface runoff and sewage. Combined sewers are not permitted within the City.

- (8) Contributor means each housing unit, business, building, parcel of real estate or other unit which contributes waste water to the City sewer system and which is assessed a monthly base sewer fee and a monthly user charge.
- (9) Costs of Capital Improvements means costs incurred by the Stormwater Utility in providing capital improvements as part of the Stormwater Management Program, including, without limitation, alteration, enlargement, extension, improvement, construction, reconstruction, and development of the Public Storm Sewers, professional services and studies connected therewith; principal and interest on Bonds heretofore or hereafter issued, including payment of any delinquencies; studies related to the operation of the system; costs related to water quality enhancements, costs related to complying with federal, state or local regulations; acquisition of real and personal property by purchase, lease, donation, condemnation or otherwise; and for the costs associated with purchasing equipment, computers, furniture and all other items necessary or convenient for the operations of the of the Stormwater Utility.
- (10) Debt Service means an amount equal to the sum of all interest payable on Bonds during any fiscal year or years, and any principal installments payable on the Bonds during such fiscal year or years.
- (11) Director means the City Engineer in such individual's capacity as Director of Public Works of the City, or a designee.
- (12) Dwelling Unit, in association with Stormwater Management, means an enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one Family.
- (13) Equivalent Residential Unit or "ERU" means a unit of measure that is equal to the average Impervious Area per Dwelling Unit located on Residential Property within the City limits.
- (14) Equivalent Residential Unit Rate or "ERU Rate" means the amount charged for each ERU in calculating the Stormwater Utility User Fee.
- (15) Exempt Property, in association with Stormwater Management, means public right-of-way, public trails, public streets, public alleys, public sidewalks, and public lands and/or easements in or upon which the Public Storm Sewers are constructed and/or located.
- (16) Fiscal Year means the designated fiscal year of the City.
- (17) Garbage means solid wastes from preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- (18) Impervious Area means the total number of square feet of hard surface area on a given property that either prevents or retards the entry of water into the soil matrix, or causes water to run off the surface in greater quantities or at an increased rate of flow, than it would enter under conditions similar to those on undeveloped land. Impervious Area includes but is not limited to, roofs, roof extensions, driveways, pavement and athletic courts.
- (19) Industrial Wastes means the liquid wastes from industrial processes as distinct from sanitary sewage.
- (20) Natural Outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

- (21) Nonresidential Property, in association with Stormwater Management, means all property other than Single Family Property.
- (22) Normal Domestic Wastewater means wastewater that has a BOD concentration of not more than 300mg/l and a suspended solids concentration of not more than 350mg/l.
- (23) Operating Budget means the annual budget established for the both the Sanitary Sewer Utility and for the Stormwater Utility for the succeeding Fiscal Year.
- (24) Operations and Maintenance, in association with Stormwater Management, means, without limitation, the current expenses, paid or secured, by the Stormwater Utility, for operation, maintenance and repair and minor replacement of the Public Storm Sewers or for implementing the Stormwater Management Program, as calculated in accordance with generally accepted accounting practices, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including professional services, equipment costs, labor costs, and the cost of materials and supplies used for current operations.
- (25) Person means any individual, firm, company, association, society, corporation or group.
- (26) Properly Shredded Garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (27) Public Sewer Means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (28) Public Storm Sewers means all storm sewers within the City, and all appurtenances and ancillary structures thereto, which have been dedicated to and accepted by the City for ownership and maintenance or otherwise owned by the City.
- (29) Residential Property, in association with Stormwater Management, means property used primarily for Single Family Dwelling Units.
- (30) Sanitary Sewer means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- (31) Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments.
- (32) Sewerage System means the Sanitary Sewer System.
- (33) Sewage Treatment Plant means any arrangement of devices and structures used for treating sewage.
- (34) Sewer, Sewer System, Sewer Systems, or Sewage Works means sanitary and/or storm sewers and all appurtenances necessary in the maintenance and operation of the same, including, but not limited to, pumping stations, sewage treatment plants, main sewers, intercepting sewers, out fall sewers, surface drains, channels, rivers, streams and other flood control facilities and works for the collection, transportation, pumping, treating, and disposing of water carried wastes or storm or surface waters.
- (35) Slug means any release or emission of water, sewage or industrial wastes which in concentration of any given constituent or in quantity of flow exceeds for any period

- of duration longer than fifteen (15) minutes more than five times the average of twenty-four (24) hour concentration or flows during normal operation.
- (36) Storm Sewer or Storm Drain means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
 - (37) Stormwater Management Program means all aspects of work necessary to perform and provide storm and surface water services in the City, including but not limited to administration, planning, engineering, operations, maintenance, best management practices, control measures, public education, citizen participation, regulation and enforcement, protection, and capital improvement of Stormwater Management Systems, plus such expenses as reserves and bond debt service coverage as are associated with provision of the Stormwater Management Program and/or System.
 - (38) Stormwater Management System means surface water and storm sewers and all appurtenances necessary in the maintenance, operation, regulation, and improvement of the same, including, but not limited to, pumping stations; enclosed storm sewers; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; detention and retention facilities; and other flood control facilities and works for the collection, conveyance, pumping, infiltration, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.
 - (39) Stormwater Utility means the utility created by this Chapter for the purpose of implementing and funding the Stormwater Management Program.
 - (40) Stormwater Utility User Fee means a fee authorized by Charter Ordinance No. 18 and this Chapter, charged to owners of property served and benefited by the Stormwater Utility, which shall be set, and may be updated or modified, through the City's Fee Schedule as approved by the Governing Body.
 - (41) Suspended Solids or "SS" means solids that either float on the surface of, or are removable by laboratory filtering.
 - (42) Undeveloped Land, in association with Stormwater Management, means land that has not been built upon or altered from its natural condition in a manner that disturbed or altered the topography or soils on the property to the degree that the entrance of water into the soil matrix is prevented or retarded.
 - (43) User means a contributor of wastewater to the City's treatment works by way of connection to the City's sewage system.
 - (44) Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.
 - (45) Water Meter means a water volume measuring and recording device, furnished and/or installed by the City or furnished and/or installed by others approved by the City.
 - (46) Winter Average Consumption (WAC) means that amount of water consumed during the December, January and February billing cycles, which shall establish that amount of water consumed and released back into the sanitary sewage system from regular household uses.
(C.O. 18; Ord. 598)

Section 14.1.2 User Fees, Other Charges

There is levied on each sanitary sewer system user having a sewer connection with the sewerage system of the City, or otherwise releasing, emitting, placing, or discharging sewage, industrial waste, or other liquids directly or indirectly into the City sewerage system, a monthly sum pursuant to a fee schedule enacted by Resolution of the Governing Body of the City of Bel Aire, Kansas. (Ord. 385)

Section 14.1.3 Use Charges Assessed Monthly

A. Requests for sanitary sewer service within the City, where a connection is in place, shall be made at the office of the City Clerk as part of the application for water service. The application shall be in such form as shall be prescribed by the City Clerk in conformance with this Chapter and Section 16.1.3 of the Municipal Water Service Code of the City of Bel Aire.

B. All provisions of a utility customer as set forth in Section 16.1.3 of the Municipal Water Service Code of the City of Bel Aire are hereby made applicable to all sanitary sewer customers of the City.

Section 14.1.4 Billing Cycle; Full Payment

The Department of Water of the City shall generate a monthly utility bill, including those charges and fees incurred by all properties connected to the City’s sanitary sewer system. Utility bills, including sanitary sewer charges, are generated by the City on the 15th of each month and mailed on the next business day. If the 15th of the month falls on a weekend or holiday, bills are generated on the next business day. Overdue account notices are generated on the first business day after the 10th of the month, and mailed on the subsequent business day.

Payment for sanitary sewer connection is due upon receipt of the monthly bill by the utility customer. Full payment of all outstanding utility charges is required by the 10th of each month. Full payment of the utility bill includes, but is not limited to, the fee assessed for all sanitary sewer used during the billing cycle, any late payment assessed, and any water service disconnect/reconnect fee. Failure to make full payment on an outstanding utility bill may subject the account to water service disconnection in accordance with Chapter 16, Article 1 of this municipal code. (Ord. 31)

Section 14.1.5 Residential Payment Options

A. **Occupied Residence.** Sewer charges are based upon the average winter consumption, which is the best indicator of that amount of water used exclusively within a structure and released back into the sanitary sewer system each month. A new residential customer may select one of the options from the options below. Once selected such option is binding until the establishment of a winter average consumption.

Option A Prior to establishment of a WAC, an occupied residence may pay a sewer fee calculated monthly which is equal to the volume of water used during that same time period.

Option B An occupied residence may pay a base sewer charge of 5,000 gallons per month until a WAC is calculated.

B. Unoccupied Residence. The account holder of an unoccupied residence may provide written notification to the City Clerk, or designee, on such form as provided by the Clerk of a residence which is temporarily vacated. During such term of vacancy the account holder will be assessed a usage of 1,000 gallons of sewer per month until the home is occupied. Prior to occupancy, as evidence by water usage in excess of 1,000 gallons/month, such customer must provide written notification to the City Clerk, or designee, on such form as provided of an intent to change sewer billing to Option A. Failure to provide such notification shall result in a default application to Option B.

Section 14.1.6 Winter Average Consumption

Sewer charges are based upon the average winter consumption (WAC), which is the best indicator of that amount of water used exclusively within a structure and released back into the sanitary sewer system each month. Unusual conditions occurring at a premise during the establishment period of the WAC, including guests staying at the property or the seasonal refilling of a hot tub, will not be adjusted out of the determination of the WAC. If the water is disconnected during the WAC calculation period long enough to impact the credibility of such determination, the City may, at its discretion, offer the account holder the option presented in Section 14.1.5(A) in lieu of the WAC.

If a customer has a verified water leak during the calculation of the winter average, the WAC may be recalculated based upon the WAC established during the preceding year. Verification includes documentation that the leak was repaired, which may include service provider invoices or receipts for applicable replacement parts, such service or purchase having occurred during the term of the WAC.

Section 14.1.7 Delinquent Payments

Late payment fees shall be issued on all utility bills not paid by the 10th of each month by 5:00 p.m. If the 10th of the month falls on a weekend or City holiday, water customers may deposit their payment in the City drop-off box no later than 8:00 am of the first City business day following the 10th of the month to avoid assessment of a late fee. The City is not responsible for payments delayed in the mail or not received by the deadlines noted above. A late fee is equal to 10% of the overdue amount compounded monthly. Late fees shall not be waived. Failure to pay the late fee will result in disconnection of service for non-payment. (Ord. 370)

Section 14.1.8 Sewer Utility Fund

There is hereby created and ordered to be established in the treasury of the City a separate fund hereby designated as the "sewer utility fund". All revenues derived from sewer service charges, including any investment earnings of such revenue, shall be promptly paid into the "sewer utility fund" upon receipt. The monies in the fund shall be used for the purposes and in the order following:

1. Paying the cost and expense of the administration, operation and maintenance of the sanitary sewer system of the City;
2. Paying the cost of alteration, reconstruction, repair, improvement, extension and enlargement of the sewerage system of the City when authorized specifically by the governing body of the City or as approved in the City's annual capital budget or annual operating budget;
3. Paying the principal of and interest on any bonds that have been heretofore or may be hereafter authorized and issued for the purposes of improving or enlarging or extending main sewers, pumping stations, operated as a part of the City's sanitary sewer system.

Such other accounts within the "sewer utility fund" may be established and maintained as determined necessary by the City for the proper administration of the City's sanitary sewerage system. (Ord. 31)

Article 2 CONNECTION TO AND DISCHARGE INTO SANITARY SEWER

Section 14.2.1	Connection to Sanitary Sewer Required
Section 14.2.2	Sewer System Connection Fee
Section 14.2.3	Separate Sewers
Section 14.2.4	Connection into Public Sewer
Section 14.2.5	Clean Out
Section 14.2.6	Inspection of Building Sewer
Section 14.2.7	Permit: Alter Public Sewer
Section 14.2.8	Release/Emission into Sanitary Sewer System
Section 14.2.9	Unlawful Deposits upon Property
Section 14.2.10	Unlawful Release or Emit; Natural Outlet
Section 14.2.11	Unlawful Discharge/Release/Emission into Sewer
Section 14.2.12	Prohibited Substances.
Section 14.2.13	Sumps and Sump Pump Pits
Section 14.2.14	Covering of Manholes
Section 14.2.15	Inspection

Section 14.2.1 Connection to Sanitary Sewer Required

The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purpose, situated within the City and abutting any street, alley or right-

of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sanitary sewer in accordance with the provisions of this Chapter, prior to issuance of an occupancy or permit, or if not available at the time of issuance of occupancy permit then within ninety (90) days after date of official notice that the public sewer is within one-hundred (100) feet of the property line.

Section 14.2.2 Sewer System Connection Fee

The City Clerk is hereby authorized and directed to collect a fee as set out in the City Fee Resolution for any connection by any person, persons, business or organization of any property onto the sanitary sewer system of the City. This fee is to be paid at the time application for new connection is made, and prior to issuance of an occupancy permit.

Section 14.2.3 Separate Sewers

In accordance with the plumbing chapter of the City's municipal code a separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer and except for duplexes which shall have one building sewer for each dwelling unit.

Section 14.2.4 Connection into Public Sewer

The connection of the building sewer into the public sewer shall be made in the "Y" branch, if such branch is available at a suitable location. Where the public sewer is twelve (12) inches in diameter or less, and no properly located "Y" branch is available as verified by the Director, the owner shall at his or her expense have installed a "Y" branch or a tap through the use of a saddle, approved by the Director in the public sewer at the location specified by the Director. Where the public sewer is greater than twelve (12) inches in diameter, and no properly located "Y" branch is verified as being available by the Director, a neat hole may be made in the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about 45 degrees. A 45-degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the Director or his/her designee.

Section 14.2.5 Clean Out

When a building drain (sewer) is installed or replaced in the City an approved clean out shall also be installed within two (2) feet of the exterior structure. When the flow line of a sewer is greater than four (4) feet below grade, the clean out shall be installed with a combination fitting, wye and 1/8th bend, or other approved fittings which assure directional entry into the sewer. When such sewers installed in areas within the City, which have clay sewer mains, new sewer taps shall be made with the use of a core drill bit and shall provide a coupon of the pipe. Such coupon shall be made available at the time of inspection.

Section 14.2.6 Inspection of Building Sewer

The applicant for the plumbing permit to construct a building sewer shall notify the Building Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Building Inspector or his or her designee.

Section 14.2.7 Permit: Alter Public Sewer

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Building Inspector.

Section 14.2.8 Release/Emission into Sanitary Sewer System

No person shall, either directly or indirectly, release or emit into the sanitary sewer system of the City any groundwater, surface water, subsurface drainage water, roof, yard, court or areaway water, condensing water from any refrigerating units having a capacity of over one ton, swimming pool, or any water from any air conditioning unit having a capacity of over three tons. (Ord. 292)

Section 14.2.9 Unlawful Deposits upon Property

It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

Section 14.2.10 Unlawful Release or Emit; Natural Outlet

It shall be unlawful to release or emit to any natural outlet within the City, or in any areas under the jurisdiction of the City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with this Chapter.

Section 14.2.11 Unlawful Discharge/Release/Emission into Sewer

A. No person shall discharge, release, emit or cause to be discharged, released, or emitted the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Director, Building Inspector, or designee, that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In determining the severity of violation, the Director or Building Inspector may consider such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.
- (3) Any water or wastes having a PH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (5) Any liquid or vapor having a temperature higher than 150EF (65EC).
- (6) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150EF (0 and 65EC).
- (7) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director or Building Inspector.
- (8) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (9) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite

sewage at the sewage treatment works exceeds the limits established by the Director or Building Inspector for such materials.

- (10) Any waters or wastes containing phenols of other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Director or Building Inspector as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (11) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director or Building Inspector in compliance with applicable state or federal regulations.
- (12) Any waters or wastes having a PH in excess of 9.5.
- (13) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - (b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - (c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (d) Unusual volume of low or concentration of wastes constituting “slugs” as defined herein.
- (14) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (15) Any waters or wastes having (1) a five-day BOD greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight of suspended solids, or (3) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the Director or Building Inspector. Where necessary in the opinion of the Director or Building Inspector the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the

Director or Building Inspector and no construction of such facilities shall be commenced until the approvals are obtained in writing.

B. Depositing any such substance into the City's sanitary sewage system is hereby declared a nuisance and may be abated in accordance with Nuisance abatement procedures provided by this Code.

C. The Director or Building Inspector may require any party owning or leasing property from which prohibited substances are being discharged into the City's sewers, sewage treatment plant, or any part of the sanitary sewer system, to obtain the services of an independent lab to test such wastewater emissions to determine the products discharged into the City's sanitary sewer system and the levels of such discharges. The independent lab must be instructed to provide a copy of any results directly, and immediately, to the Director or Building Inspector of Public Works for the City of Bel Aire, Kansas. Failure to obtain the required tests within the amount of time allowed for by the Director or Building Inspector may result in the City disconnecting water service to such property, and assessment of all costs associated with disconnection and reconnection of water service. If the property owner or lessee refuses to obtain such testing, the City may obtain such testing, and charge such costs back to the property owner in accordance with Nuisance abatement procedures provided by this Code. All costs associated with such testing shall be paid by the party obtaining such testing.

Section 14.2.12 Prohibited Substances.

A. If any waters or wastes are discharged, released, emitted, or placed, or are proposed to be discharged, released, emitted, or placed, to or within the public sewers, which waters contain substances or possess characteristics which in the judgment of the Director or Building Inspector, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director or Building Inspector may:

- (1) Reject the wastes,
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge;
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

B. If the Director or Building Inspector permits the pretreatment or equalization of waste flows, all of the following shall be subject to review and approval of the Director or Building Inspector: the design and installation of the pretreatment process, the site of pretreatment, and the site(s) of the source contamination. All means of pretreatment shall be subject to the requirements of all applicable codes, ordinances and laws.

Section 14.2.13 Sumps and Sump Pump Pits

No sump or sump pump pit may be connected to the sanitary sewer system of the City, and no fluids or solids associated with a sump or sump pump may be deposited into the City's sanitary sewer system. (Ord. 292)

Section 14.2.14 Covering of Manholes

It shall be unlawful to cover or cause to be covered or concealed any City entry access covers with any type of debris such as dirt, grass, grass clippings, rocks, tree limbs, wood, scrap iron, cars. The property owner shall be liable for all damages resulting to the access cover or caused by preventing or delaying access to such cover in emergency situations, including when the property owner fences in the easement upon which such access is located.

Section 14.2.15 Inspection

The Director or Building Inspector, Building Inspector, or any designee, shall have the right and privilege to enter upon any property connected, or to be connected, to the sewer system of the City within reasonable hours, for the purpose of making inspections in the interests of protecting the health, safety, and welfare of the community. (Ord. 292)

Article 3 PRIVATE DISPOSAL SYSTEM

- Section 14.3.1 Interceptors**
- Section 14.3.2 Tap To Sanitary Sewers**
- Section 14.3.3 Sewer System; Installation, Code Compliance**
- Section 14.3.4 License Required; Sewer System Installation**
- Section 14.3.5 Sewer System, Final Inspection**
- Section 14.3.6 Permit to Construct Required**
- Section 14.3.7 Inspection; Occupancy Permit**
- Section 14.3.8 System; Compliance with County Health**
- Section 14.3.9 Operation of Private Sewage Facilities**
- Section 14.3.10 Pre-Treatment**
- Section 14.3.11 Manhole Required**
- Section 14.3.12 Tests; Analysis**
- Section 14.3.13 Special Agreements**
- Section 14.3.14 Protection from Damage**
- Section 14.3.15 Right of Entry; Inspections**
- Section 14.3.16 Indemnification**
- Section 14.3.1 Access to Easement**

Section 14.3.1 Interceptors

Grease, oil and sand interceptors shall be provided when, in the opinion of the Building Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Building Inspector, and shall be located as to be readily and easily accessible for cleaning and inspection.

Section 14.3.2 Tap To Sanitary Sewers

Where a public sanitary sewer is not available under the provisions of this Chapter, the building sewer may be connected to a private sewage system complying with the provisions of this Article, the City's plumbing and building codes, and with written approval of the Building Inspector.

Section 14.3.3 Sewer System; Cost of Installation, Code Compliance

The cost and expense of the installation and connection must be borne by the owner. Such installation and connection must comply with all the provisions of this code and all other applicable regulations and laws. The tap fee shall be as set out in the City Fee Resolution.

Section 14.3.4 License Required; Sewer System Installation

Any installation as provided for by this Article shall be made by persons licensed to perform such work in the City, and the owner shall indemnify, defend and hold harmless the City from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer tap and connection.

Section 14.3.5 Sewer System, Final Inspection

The sewer connection shall not be covered by any material until a final inspection has been made by the Building Inspector, or his or her authorized designee, and written permission has been given to cover such connections to the sewer system.

Section 14.3.6 Permit to Construct Required

Before commencement of construction of a private sewage system the owner shall first obtain a written permit to construct a private sewage system within the City. Such permit must be signed by the Building Inspector. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement with any plans, specifications, and other information as are deemed necessary by the Building Inspector. A permit and inspection fee as set out in the City Fee Resolution shall be paid to the City at the time the application is filed.

Section 14.3.7 Inspection; Occupancy Permit

An occupancy permit for any structure utilizing a private sewage system shall not become effective until the installation of such private sewage system is completed to the satisfaction of the Building Inspector. The Building Inspector, or designee, shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Building Inspector when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24)

hours of the receipt of notice by the Building Inspector provided that the twenty-four (24) hour notice will allow the inspection to occur during normal working hours.

Section 14.3.8 System; Compliance with County Health Department

The type, capacities, location, layout and lot area for construction of private sewage systems shall comply with all recommendations and requirements of the Sedgwick County Community Health Department and the State Department of Health and Environment. No permit shall be issued for any private sewage system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge into any public sewer or natural outlet.

Section 14.3.9 Operate Private Sewage Facilities At Own Expense

The owner shall operate and maintain the private sewage facilities in a sanitary manner at all times, at no expense to the City.

Section 14.3.10 Pre-Treatment

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at such owner's expense.

Section 14.3.11 Manhole Required

When required by the Director or Building Inspector, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her. It is unlawful to cover or conceal manholes.

Section 14.3.12 Tests; Analysis

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the 18th edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customary accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas PH are determined from periodic grab samples.

Section 14.3.13 Special Agreements

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial or commercial concern regarding appropriate disposal of an industrial waste of unusual strength or character normally requiring pretreatment before acceptance, subject to payment therefore, by the industrial or commercial concern.

Section 14.3.14 Protection from Damage

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person or entity violating this section shall be subject to criminal prosecution therefore and liable for payment of any damages caused by such violations.

Section 14.3.15 Right of Entry; Inspections

The Building Inspector and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article, and such persons shall be authorized to make application to a court of competent jurisdiction ordering that such access be provided should such access be denied. The Director, Building Inspector, or designee, shall have no authority to inquire into any process including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Section 14.3.16 Indemnification

While performing the necessary work on private properties, the Building Inspector, or duly authorized employees of the City, shall observe all safety rules applicable to the premises established by the owners, and the owners shall be held harmless for injury or death to the City employees and the City shall indemnify the owners against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owners and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owners to maintain safe conditions.

Section 14.3.1 Access to Easement

The Building Inspector, and other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all private properties through which the City holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, and such persons shall be authorized to make application to a court of competent jurisdiction ordering that such access be provided should such access be denied. All costs associated with obtaining access to an easement shall be borne by the individual preventing rightful and lawful access. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Article 4 STORMWATER MANAGEMENT; UTILITY

Section 14.4.1	Stormwater Management: Program and Utility
Section 14.4.2	Findings and Statements of Policy
Section 14.4.3	Sewer System; Stormwater Management System
Section 14.4.4	Definitions
Section 14.4.5	Rules and Regulations; Billing
Section 14.4.6	Sewer System Revenue Bonds; Requirements
Section 14.4.7	Same; Powers Supplemental and Additional
Section 14.4.8	Administration
Section 14.4.9	Budget
Section 14.4.10	Stormwater Utility User Fee
Section 14.4.11	Appeal Procedure
Section 14.4.12	Stormwater Utility User Fee Collection
Section 14.4.13	Stormwater Utility Fund

Section 14.4.1 Creation of a Stormwater Management Program; Establishment of a Stormwater Utility

Pursuant to City Charter Ordinance No. 18, the City's general home rule authority, its nuisance abatement authority, its police powers and all other authority, the Bel Aire Governing Body does hereby create a Stormwater Management Program and does hereby establish a Stormwater Utility and declares its intention to operate the same.

(C.O. 18; Ord. 598)

Section 14.4.2 Findings and Statements of Policy

A. The City of Bel Aire, Kansas, desires to create a Stormwater Management Program pursuant to Charter Ordinance No. 18.

B. A Stormwater Management Program will provide both general and specific benefits to all property within the City and will include the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvement in general health and welfare through reduction of undesirable stormwater conditions; improvement of water quality in the Stormwater Management System and its receiving waters; the provision of a planned and orderly system for managing and mitigating the effects of new development on stormwater and appropriate balancing between development and preservation of the natural environment.

C. The Stormwater Management Program will also initiate innovative and proactive approaches to stormwater management within the City to address problems in areas of the

City that currently are prone to flooding, protect against replication of these types of problems and the creation of similar problems in newly developing areas of the City, protect property in the City from stream bank erosion and the attendant loss of natural resources and the reduction of property values, conserve natural stream assets within the City, enhance water quality, and assist in meeting the mandates of the National Pollutant Discharge Elimination System as created under the Federal Clean Water Act and associated state and federal laws and their supporting regulations.

D. Both standard and innovative stormwater management is necessary in the interest of the public health, safety and general welfare of the residents, businesses and visitors of the City.

E. Implementation of the Stormwater Management Program will require the expenditure of significant amounts of public money.

F. All property in the City will benefit from the Stormwater Management Program.

G. The City desires to fairly distribute costs of the Stormwater Management Program implementation among all developed property which generates the need therefor.

H. The City has determined that the establishment of a Stormwater Utility is an appropriate method of funding certain portions of the costs of implementing the Stormwater Management Program.

I. The City has adopted Charter Ordinance No. 18, which grants to the City the authority to adopt, by ordinance or resolution, rules and regulations providing for the management and operation of a Stormwater Utility, fixing Stormwater Utility User Fees, requiring security for the payment thereof, providing methods and rules relating to the calculation and collection of the fees and for credits against the fees, and providing for the disposition of the revenues derived therefrom.

L. The Stormwater Utility User Fee imposed by this Chapter, is calculated by a in relation to classes of property within the City in association with their anticipated impact upon stormwater management, and the use of or benefit from the Stormwater Management System, and such fee is neither a tax nor a special assessment, but a charge (in the nature of tolls, fees or rents) for services rendered or available.

M. The City has researched collection options and hereby determines that in order to promote efficiency, eliminate duplication of services, and utilize the most economically feasible method of fee collection, the Stormwater Utility User Fee shall be billed and collected monthly with the monthly water and sewer utility bill for those properties utilizing other City utilities and shall be billed and collected separately at intervals as set by the Governing Body for those properties not utilizing other City utilities.

(C.O. 18; Ord. 598)

Section 14.4.3 Sewer System; Stormwater Management System; Powers of City

The City of Bel Aire shall have all the powers necessary or convenient to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a Sewer System or Stormwater Management System, including such powers as the City may, from time to time, establish by way of ordinances adopted by the Governing Body of the City and including, but not by way of limitation, the following powers:

A. To impose service charges on property served by the City's Sewer System or Stormwater Management System. The method of calculating and fixing such service charge shall be as established by rules and regulations heretofore or hereafter adopted;

B. To provide that sewer service charges authorized in subparagraph (a) above shall, when delinquent, be certified by the Clerk of the City to the County Clerk of Sedgwick County to be placed on the tax roll for collection, subject to the same penalties and to be collected in like manner as other taxes, and such charges shall, thereafter, constitute a lien upon the real estate served by the Sewer System or Stormwater Management System and against which such charges were made;

C. To use the proceeds of the sewer service charges authorized in subparagraph (a) above to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a Sewer System or Stormwater Management System;

D. To issue general obligation bonds or revenue bonds, as authorized by law, and to use the proceeds of the same to plan, alter, enlarge, extend, improve, construct, develop and redevelop a Sewer System or Stormwater Management System;

E. To use the proceeds of the sewer service charges authorized in subparagraph (a) above to pay the principal and interest on bonds heretofore or hereafter issued for the planning, altering, enlarging, extending, improving, constructing, reconstructing, developing, redeveloping, operating and maintaining of a Sewer System or Stormwater Management System;

F. To contract with agencies of the federal government, public bodies of this state or other states, or with any private person or body for jointly planning, altering, enlarging, extending, improving, constructing, reconstructing, developing, redeveloping, operating and maintaining a Sewer System or Stormwater Management System;

G. To contract with agencies of the federal government, public bodies of this state or other states or with any private person or body for receiving and treating sewage or stormwater from outside of the city limits of the City;

H. To plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a Sewer System or Stormwater Management System outside the city limits of the City and to have the right of eminent domain outside the city limits of the City in order to acquire land and right of way for a Sewer System or Stormwater Management System;

I. To borrow money and to apply for and accept advances, loans, grants, contributions or any other form of financial assistance from the federal government, the state, county or any other public body for the purposes of this act, and the City may, when contracting with the federal government for any such financial assistance, include in any such contract such conditions imposed pursuant to federal law as the City may deem reasonable and appropriate;

J. To, under authority granted herein, establish a sanitary Sewer System utility, a Stormwater System utility, and to combine its sanitary Sewer System utility and Stormwater System utility and its Water utility into one or more utilities; and

K. To establish a unified and consolidated billing system for its sanitary Sewer System utility, its Stormwater System utility and its Water utility, whether or not the same are combined as provided for in subparagraph (j) above. (C.O. 18; Ord. 598)

Section 14.4.4 Definitions

Definitions utilized by this Article regarding land use are intended to clarify the process of determining stormwater management fees, and shall not be made applicable to other chapters of this Code, nor to the City's Planning and Zoning Code. (C.O. 18; Ord. 598)

Section 14.4.5 Rules and regulations authorized; billing and collection of sewer service charges; discontinuance of water service, when

The City shall have the power by ordinance or resolution to adopt rules and regulations that shall include, but not be limited to, providing for the management and operation of its Sewer System or Stormwater Management System, prohibiting the discharge into such Sewer System or Stormwater Management System of matter deleterious to the proper operation of the Sewer System or Stormwater Management System and the general health, safety and welfare of the community, establishing the types and characteristics of sewage and stormwater that may be discharged into the Sewer System or Stormwater Management System, establishing the method for calculating and fixing the service charge for property served by the City's Sewer System and Stormwater Management System, requiring security for the payment thereof, and providing methods and rules of collection, and providing for the disposition of the revenue therefrom. In the event any person, firm, corporation, political unit or organization living or operating on property served by the City's Sewer System or Stormwater Management System shall neglect, fail or refuse to pay the service charges fixed by the governing body of the City, the City may, as authorized by rules and regulations adopted under the authority of this section and if a unified and consolidated billing system has been established, refuse the delivery of water through the pipes and mains of its publicly owned waterworks until such time as such charges are fully paid. (C.O. 18; Ord. 598)

Section 14.4.6 Issuance of Sewer System revenue bonds; requirements

A. The City shall have the power to issue revenue bonds from time to time in its discretion to finance the planning, altering, enlarging, extending, improving, constructing, and reconstructing of a Sewer System or Stormwater Management System under this act. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the City derived from or held in connection with its Sewer System or Stormwater Management System: Provided, however, that payment of such

bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government.

B. Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of this Article are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

C. Bonds issued under this section shall be authorized by ordinance or resolution of the governing body and may be issued in one or more series and shall bear such date or dates, be payable on demand or mature at such time or times, bear interest at such rate or rates, not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, be in such denomination or denominations, be in such form, have such rank or priority, be executed in such manner, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by such ordinance or resolution issued pursuant thereto. (C.O. 18; Ord. 598)

Section 14.4.7 Same; powers supplemental and additional

The powers herein granted to plan, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate and maintain a Sewer System or Stormwater Management System and to issue bonds shall be supplemental to and not amendatory of the provisions of all other laws and shall not be construed to limit the City's authority under the provisions of any other laws. (C.O. 18; Ord. 598)

Section 14.4.8 Administration

The Director shall have the power to undertake the following activities to implement the Stormwater Management Program:

A. Advise the Governing Body on matters relating to the Stormwater Management Program and to make recommendations to the Governing Body concerning the adoption of ordinances, resolutions, policies, guidelines and regulations in furtherance of the objectives of the Stormwater Management Program.

B. To undertake studies, acquire data, prepare master plans, analyze policies or undertake such other planning and analyses as may be needed to address concerns related to stormwater within the City and to further the objectives of the Stormwater Management Program, and to undertake activities designed to communicate, educate and involve the public and citizens in addressing these issues or in understanding and abiding by the elements of the Stormwater Management Program.

C. Acquire, design, construct, operate, maintain, expand, or replace any element or elements of the Public Storm Sewers, including funding the acquisition of easements by eminent domain, and obtaining title or easements other than by eminent domain, over any

real or personal property that is part of, will become part of or will protect the Public Storm Sewers, or is necessary or convenient for the implementation of the Stormwater Management Program.

D. Regulate, establish standards, review, and inspect the design, construction or operation and maintenance of any Stormwater Management System that is under the control of private owners, whether or not such systems are required or intended for dedication to the Public Storm Sewer system, when such systems have the potential to impact, enhance, damage, obstruct or affect the operation and maintenance of the Public Storm Sewers or the implementation of the Stormwater Management Program.

E. Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of stormwater which would flow into the Stormwater Management System or in any way effect the implementation of the Stormwater Management Program.

F. Undertake any activities related to stormwater management when such activities are recommended by applicable federal, state or local agencies or when such activities are required by any permit, regulation, ordinance, or statute governing stormwater or water quality concerns.

G. Analyze the cost of services and benefits provided by the Stormwater Utility and the structure of fees, service charges, credits, and other revenues on an annual basis and make recommendations to the Governing Body regarding the same.

H. Undertake expenditures as required by the Governing Body to implement these activities, including all Costs of Capital Improvements, Operations and Maintenance, Debt Service, and other costs as required. (C.O. 18; Ord. 598)

Section 14.4.9 Budget

The operating budget shall conform to State law, City policy and generally accepted accounting practices. The City, as part of its annual budget process, may adopt capital and operating budgets for the Stormwater Utility, and may utilize enterprise funds, special revenue funds or reserve funds as deemed reasonable and appropriate by the Governing Body of the City. The operating budget will commence in January of each year. (C.O. 18; Ord. 598)

Section 14.4.10 Stormwater Utility User Fee

A. Fee Established. There is hereby imposed on each and every residential developed property and nonresidential developed property, other than property that is not serviced by the stormwater management system or exempt property, a stormwater utility user fee.

Such stormwater utility user fee may be determined in association with the use of such property: agricultural, residential, commercial, manufacturing or industrial. The stormwater utility fees shall be set, and may be updated or modified, through the City's Fee Schedule as approved by the Governing Body.

B. Stormwater utility user fee for Residential Developed Property.

In the event of a newly constructed dwelling unit, the charge for the stormwater utility user fee attributable to that dwelling unit shall commence upon the issuance of the certificate of occupancy for that dwelling unit, or if construction is at least fifty percent complete and is halted for a period of three months, then that dwelling unit shall be deemed complete for purposes of this Code and the stormwater utility user fee shall commence at the end of the three-month period.

C. Stormwater utility user fee for Nonresidential Developed Property, other than agricultural.

In the event of a newly constructed commercial property, the charge for the stormwater utility user fee attributable to that property shall commence upon the issuance of the certificate of occupancy for that unit, or if construction is at least fifty percent complete and is halted for a period of three months, then that unit shall be deemed complete for purposes of this Code and the stormwater utility user fee shall commence at the end of the three-month period.

D. Agricultural Property; Exemptions. Real property zoned agriculture, and utilized for agricultural practices, generally maintains little area which is impervious to stormwater runoff it shall be deemed exempt from the fee established herein. Property owners utilizing property for agricultural purposes which is not zoned agriculture may apply for an agricultural exemption from the Director. Such appeals shall be evaluated on a case-by-case basis, and all decisions placed in writing and maintained by the City Clerk. Generally, property with no structures may be granted such exemption.

E. Stormwater utility user fee Credit. The Governing Body may by resolution adopt guidelines that establish credits and/or incentives that reduce the stormwater utility user fee that would otherwise be assessed against properties that utilize privately owned and maintained retention or detention facilities, if it is determined that the existence of such retention or detention facilities results in a reduction in the operating budget of the utility.

(C.O. 18; Ord. 598)

Section 14.4.11 Appeal Procedure

Any decision of the Director, or his designee, not resolved to the satisfaction of the property owner may be appealed to the Mayor within five days of the receipt of the decision of the Director, or his designee. Such appeal shall be filed in writing through the City Clerk. Based on the written testimony, reports, file documents, etc., the Mayor shall make a decision within ten working days of the receipt of the appeal and provide a written response to the appellant. This response shall serve as the final administrative decision of the City.

The decision of the Mayor shall be final and any further appeal of such decision shall be to the Eighteenth Judicial District Court of the state of Kansas by way of the provisions of K.S.A. 60-2101(d). (C.O. 18; Ord. 598)

Section 14.4.12 Stormwater Utility User Fee Collection

A. The operation and maintenance of the stormwater utility shall be combined with the existing water/wastewater/solid waste utility. The stormwater utility user fee shall be billed and collected monthly with the monthly water and sewer utility bill for those properties utilizing other city utilities and shall be billed and collected separately at intervals as set by the director for those properties not utilizing other city utilities. The stormwater utility user fee for those properties utilizing other city utilities shall be part of a consolidated statement for utility customers which shall be paid by a single monthly payment. In the event that a partial payment is received, the payment shall be applied to the water and sewer portion of the account first and then to the stormwater utility user fee portion of the account. Unless otherwise provided for herein, all bills for stormwater utility user fees shall become due and payable in accordance with sections of the code of the city and with rules and regulations that pertain to the Bel Aire water and sewer utility that relates to the collection of utility charges. Stormwater utility user fee bills for any given property shall initially be the responsibility of the person who is paying for water and/or sewer service for the property. If the property is not using water and/or sewer services, then stormwater utility user fees shall be the responsibility of the person in possession of the property, unless other arrangements are made. If no person is in possession of the property, then the stormwater utility user fees shall be the responsibility of the property owner. The property owner is responsible for the stormwater utility user fees not paid by the occupant.

B. Stormwater utility user fees shall be subject to a penalty for late payment as set forth within the Fee Resolution adopted by the City. In addition to any other remedies or penalties provided by this chapter or any other ordinance of the City, failure of property owner to pay such charges promptly when due shall subject such property to discontinuance of water services and the Director, or his/her designee, is empowered and directed to enforce this provision as to any and all delinquent users in accordance with provision(s) applicable to Water and Sewer Utility Services.

C. Stormwater utility user fees authorized to be charged in this Chapter when delinquent may be certified by the City Clerk to the County Clerk of Sedgwick County to be placed on the tax roll for collection, subject to the same penalties and to be collected in like manner as other taxes, and such charges shall, thereafter, constitute a lien upon the real estate served by the stormwater utility and against which such charges were made, regardless of whether the stormwater utility user fees were incurred when a property owner was in possession of the property or a non-owner was in possession of the property, as all parties are hereby on notice that such fees are due and owing upon property located within the City. (C.O. 18; Ord. 598)

Section 14.4.13 Stormwater Utility Fund

Stormwater utility user fees collected by the city shall be paid into an enterprise, special revenue fund, and/or reserve fund which will be known as the "stormwater utility fund." Such fund shall be used for the purpose of paying the extension and replacement,

operations and maintenance and debt service of the stormwater management system and to carry out all other purposes of the utility.

(C.O. 18; Ord. 598)

Article 5 STORMWATER MANAGEMENT REGULATIONS

- 14.5.1 General provisions**
- 14.5.2 General prohibition**
- 14.5.3 Specific prohibitions and requirements**
- 14.5.4 Release reporting and cleanup**
- 14.5.5 Stormwater discharges from construction activities.**
- 14.5.6 Stormwater discharge and industrial activity**
- 14.5.7 Ditches and ponds**
- 14.5.8 Compliance monitoring**
- 14.5.9 Subdivision development**
- 14.5.10 Enforcement actions**
- 14.5.11 Applicability of enforcement actions.**
- 14.5.12 Hearing and appeal.**
- 14.5.13 Enforcement personnel authorized.**
- 14.5.14 Other remedies**
- 14.5.15 Falsifying information**
- 14.5.16 Supplemental enforcement actions**
- 14.5.17 Severability**
- 14.5.18 -.25 Reserved.**
- 14.5.26 Submission, Review, Approval Runoff Mgm Plans**
- 14.5.27 Preliminary Stormwater Management Plan.**
- 14.5.28 Final Stormwater Management Plan**
- 14.5.29 Design Criteria.**
- 14.5.30 Performance Standards.**
- 14.5.31 Grading, Sedimentation and Erosion Control; General**
- 14.5.32 Grading Plan--Subdivision**
- 14.5.33 Grading Plan--Individual Lots**
- 14.5.34 Minimum Grading Standards**
- 14.5.35 Sediment and Erosion Control.**
- 14.5.36 Appeals.**
- 14.5.37 Penalty for Violations--Actions.**

14.5.1 General provisions

A. Purposes. The purpose and objective of this Article are as follows:

1. To maintain and improve the quality of surface water and groundwater within the city;
2. To prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the city;
3. To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers of the city;
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products;
5. To facilitate compliance with state and federal standards and permits by owners of industrial and construction sites within the city;
6. To enable the city to comply with all federal and state laws and regulations applicable to its NPDES permit for stormwater discharges.

B. Administration. Except as otherwise provided in this Article, the Director, or his appointed representative, shall administer, implement, and enforce the provisions of this Article.

C. Abbreviations. The following abbreviations when used in this Article shall have the designated meanings:

BMP	Best Management Practices
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
HHW	Hazardous Household Waste
mg/l	Milligrams per liter
MS4	Municipal Separate Storm Sewer System
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
PST	Petroleum Storage Tank
SWP3	Stormwater Pollution Prevention Plan
USC	United States Code

D. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated.

1. “Best management practices (BMPs)” mean schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States or the city’s MS4. Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas. The BMPs required in this Article will be sufficient to prevent or reduce the likelihood of pollutants entering storm sewers, ditches or ponds.
2. “City” means the city of Bel Aire, Kansas.
3. “Commencement of construction” means the disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
4. “Commercial” means pertaining to any business, trade, industry, or other activity engaged in for profit.
5. “Construction general permit.” See “Kansas general permit for stormwater discharges from construction sites.”
6. “Contractor” means any person or firm performing construction work at a construction site, including any general contractor and subcontractors. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical, landscaping contractors, and material suppliers delivering materials to the site.
7. “Director” means the Director of Public Works, or his or her duly authorized representative.
8. “Discharge” means any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.
9. “Discharger” means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.
10. “Domestic sewage” means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.
11. “Earthwork” means the disturbance of soils on a site associated with clearing, grading or excavation activities.
12. “Environmental Protection Agency (EPA)” means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.
13. “Extremely hazardous substance” means any substance listed in the appendices to 40 CFR Part 355, emergency planning and notification.

14. “Facility” means any building, structure, installation, process or activity from which there is or may be a discharge of a pollutant.
15. “Fertilizer” means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.
16. “Final stabilization” means the status when all soil-disturbing activities at a site have been completed. This would establish a uniform perennial vegetative cover with a density of seventy percent coverage for unpaved areas and those not covered by permanent structures or equivalent permanent stabilization measures (by employing riprap, gabions or geotextiles).
17. “Fire protection water” means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.
18. “Garbage” means putrescible animal and vegetable waste materials from the handling, preparation, cooking or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.
19. “Harmful quantity” means the amount of any substance that will cause a violation of a State Water Quality Standard or any adverse impact to the city’s drainage system.
20. “Hazardous household waste (HHW)” means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(h)(1), would be classified as a hazardous waste under 40 CFR Part 261.
21. “Hazardous substance” means any substance listed in Table 302.4 of 40 CFR Part 302.
22. “Hazardous waste” means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
23. “Hazardous waste treatment, disposal, and recovery facility” means all contiguous land, and structures, other appurtenances and improvements on the land used for the treatment, disposal, or recovery of hazardous waste.
24. “Individual building sites” mean and include sites of building construction or earthwork activities that are not a part of a new subdivision development and any individual lot within a newly developing subdivision.
25. “Industrial General Permit.” See “Kansas general permit for stormwater discharges associated with industrial activity.”
26. “Industrial waste” means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade or business.
27. “Industry” means and includes: (a) municipal landfills; (b) hazardous waste treatment, disposal, and recovery facilities; (c) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, U.S.C. Section 11023; industrial facilities required to obtain NPDES stormwater discharge permits due to their standard industrial classification or narrative description; and (d) industrial facilities that the Director determines are contributing a substantial

pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity.

28. “Kansas general permit for stormwater discharges associated with industrial activity” and “Industrial general permit” mean the industrial general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.
29. “Kansas general permit for stormwater discharges from construction sites” and “construction general permit” mean the construction general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.
30. “Landfill” means an area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, or an injection well.
31. “Municipal separate storm sewer system (MS4)” means the system of conveyances, (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, drainage easements or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.
32. “Municipal solid waste” means solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.
33. “NPDES permit” means for the purpose of this Article, this is a permit issued by EPA or the state of Kansas that authorizes the discharge of stormwater pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.
34. “Nonpoint source” means the source of any discharge of a pollutant that is not a point source.
35. “Notice of intent (NOI)” means the notice of intent that is required by either the industrial general permit or the construction general permit.
36. “Notice of termination (NOT)” means the notice of termination that is required by either the industrial general permit or the construction general permit.
37. “Notice of violation” means a written notice provided to the owner or contractor detailing any violations of this Article and any clean-up action expected of the violators.
38. “Oil” means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.
39. “Owner” means the person who owns a facility, part of a facility or land.
40. “Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents or assigns, including all federal, state and local governmental entities.

41. "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant or desiccant.
42. "Petroleum product" means a petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle, or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.
43. "Petroleum storage tank (PST)" means any one or combination of aboveground or underground storage tanks that contain petroleum product and any connecting underground pipes.
44. "Point source" means any discernable, confined, and discrete conveyance including, but not limited to: any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.
45. "Pollutant" means dredged spoil, spoil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard waste, hazardous household wastes, used motor oil, anti-freeze, litter, and industrial, municipal, and agricultural waste discharged into water.
46. "Pollution" means the alteration of the physical, thermal, chemical or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation or property, or public health, safety or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
47. "Qualified personnel" means persons who possess the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.
48. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.
49. "Reportable quantity (RQ)" means, for any hazardous substance, the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any extremely hazardous substance, the quantity established in 40 CFR Part 355.
50. "Rubbish" means nonputrescible solid waste, excluding ashes, that consist of: (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (b) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (one thousand six hundred to one thousand eight hundred degrees Fahrenheit).

51. "Sanitary sewer" means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the city sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).
52. "Septic tank waste" means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.
53. "Service station" means any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from pumps.
54. "Sewage" means the domestic sewage and/or industrial waste that is discharged into the city sanitary sewer system and passes through the sanitary sewer system to the city sewage treatment plant for treatment.
55. "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
56. "Solid waste" means any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material including: solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, agricultural operations, and community and institutional activities.
57. "State" means the state of Kansas.
58. "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.
59. "Stormwater discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is listed as one of the categories of facilities in 40 CFR Section 122.26(b)(14), and which is not excluded from EPA's definition of the same term.
60. "Stormwater pollution prevention plan (SWP3)" means a plan required by a NPDES stormwater permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity.
61. "Subdivision development" means and includes activities associated with the platting of any parcel of land into two or more lots and includes all construction taking place thereon.
62. "Used oil (or used motor oil)" means any oil that has been refined from crude oil or a synthetic oil that, as a result of use, storage or handling; has become unsuitable for its original purpose because of impurities or the loss of original properties.
63. "Water of the State" and "water" mean any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

64. “Water quality standard” means the designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses.
65. “Waters of the United States” mean all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “waters of the United States” at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.
66. “Wetland” means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.
67. “Yard waste” means leaves, grass clippings, yard and garden debris, and brush that result from landscaping maintenance and land-clearing operations.

14.5.2 General prohibition

- A. No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of stormwater, except as allowed in subsection B of this section.
- B. The following non-stormwater discharges are deemed acceptable and not a violation of this section:
 1. A discharge authorized by, and in full compliance with, a NPDES permit (other than the NPDES permit for discharges from the MS4);
 2. A discharge or flow resulting from emergency firefighting;
 3. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials;
 4. A discharge from water line flushing;
 5. A discharge or flow from lawn watering, landscape irrigation, or other irrigation water;
 6. A discharge or flow from a diverted stream flow or natural spring;
 7. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
 8. Uncontaminated groundwater infiltration;

9. Uncontaminated discharges or flow from a foundation drain, crawl space pump, footing drain or sump pump;
10. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
11. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
12. A discharge or flow from individual residential car washing;
13. A discharge or flow from a riparian habitat or wetland or natural spring;
14. A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
15. Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
16. Swimming pool water that has been dechlorinated so that it contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
17. Heat pump discharge waters (residential only).

C. Notwithstanding the provisions of subsection B of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the Director to be a source of pollutants to the waters of the United States or to the MS4, written notice of such determination has been provided to the discharger, and the discharge has occurred more than ten days beyond such notice.

14.5.3 Specific prohibitions and requirements

A. The specific prohibitions and requirements in this section are not necessarily inclusive of all the discharges prohibited by the general prohibition of this Article.

B. No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the city to violate a KDHE water quality standard, the city's NPDES stormwater permit, or any state-issued discharge permit for discharges from its MS4.

C. No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced the following substances into the MS4:

1. Any used motor oil, antifreeze or any other petroleum product or waste;
2. A harmful quantity of industrial waste;
3. Any hazardous waste, including household hazardous waste;
4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;

5. Any garbage, rubbish or yard waste;
6. Wastewater that contains a harmful quantity of soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment, by a business or public entity that operates more than five such vehicles;
7. Wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
8. Wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any harmful quantity of soap, detergent, degreaser, solvent, or any surfactant based cleaner;
9. Any wastewater from commercial floor, rug, or carpet cleaning;
10. Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
11. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blowdown from a boiler;
12. Any ready-mixed concrete, mortar, ceramic, asphalt base material or hydromulch material, or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
13. Any runoff, washdown water or waste from any animal pen, kennel, fowl or livestock containment area;
14. Any swimming pool water containing a harmful level of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
15. Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine at the point of entry into the MS4 or waters of the United States;
16. Any water from a water curtain in a spray room used for painting vehicles or equipment;
17. Any contaminated runoff from a vehicle wrecking yard;
18. Any substance or material that will damage, block, or clog the MS4; or
19. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or

treated wastewater from the remediation of any such PST release, unless the discharge has received a NPDES permit from the state.

D. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.

E. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.

F. Regulation of Pesticides and Fertilizers.

1. No person shall use or cause to be used any pesticide or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide or fertilizer to enter the MS4 or waters of the United States.
2. No person shall dispose of, discard, store, or transport a pesticide or fertilizer, or its container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide or fertilizer to enter the MS4 or waters of the United States.

G. Used Oil. No person shall discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater or water course.

H. Vegetative Waste and Structures.

1. No person shall construct, maintain, or allow any natural or non-natural structures or vegetative barriers including but not limited to trees, shrubbery, berms, fences (including chain link), and walls upon any MS4 which, the Director finds impedes, detains, retains, or otherwise interferes with the drainage of stormwater regardless of the source of stormwater.
2. No person shall deposit leaves, grass, trash or other such materials upon any MS4 if such deposit shall be determined by the Director to interfere with the ability of the city to properly maintain or clean the area to allow for the safe and efficient drainage of stormwater, or such accumulation directly interferes with the safe and efficient drainage of stormwater through the MS4.
3. No owner or occupant of property which abuts upon any MS4 shall permit or allow the accumulation of leaves, grass, trash or other such materials upon such MS4 if such accumulation is determined by the Director to interfere with the ability of the city to properly maintain or clean the area to allow for the safe and efficient drainage of stormwater, or such accumulation directly interferes with the safe and efficient drainage of stormwater through the MS4.

I. Cleanup.

1. Should it be determined by the Director that any person or business has allowed any pollutant into the MS4 or waters of the United States, immediate

measures will be taken by the responsible party to remove the pollutants. If the pollutants are not removed within the time period specified by the Director, the city may remove the pollutants and assess the cost thereof to the responsible party. The city may use any legal means to collect such costs, should the responsible party fail to pay such cost within forty-five days.

2. The responsible party may also be issued a citation for such violation of this Code in the manner set forth and described in this Stormwater Code.

14.5.4 Release reporting and cleanup

A. Any person responsible for any release of any hazardous material that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.

B. As soon as possible following such release, a written report shall be obtained by the Director from all City, County, and State agencies with authority over reporting, cleanup, containment, and any other appropriate remedial action associated with such release.

14.5.5 Stormwater discharges from construction activities

A. General Requirements (All Sites).

1. The owners of construction sites shall ensure that best management practices are used to control and reduce the discharge of pollutants into the MS4 and waters of the United States to the maximum extent possible under the circumstances.
2. Qualified personnel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed

to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within twenty-four hours of the end of a storm that is one-half inch or greater. All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, the best management practices shall be revised as appropriate as soon as practicable. These inspections, along with a description of revisions, will be documented in writing and available for inspection by the Director upon request.

3. Should it be found that soil or pollutants have already or may be carried into the MS4 or waters of the United States, immediate measures will be taken by the owner to remedy the violation and/or remove the pollutants. If the owner

fails to remove pollutants within the time period prescribed in the notice of violation from the city, the city may remove the pollutants and assess the cost thereof to the responsible owner. Failure of the owner to pay such costs will be grounds for the denial of further approvals or the withholding of occupancy certificates.

4. When determined to be necessary for the effective implementation of this section, the Director may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by subsection (A)(1) of this section that will be implemented at the construction site. Should the proper BMP's not be installed or if the BMP's are ineffective, upon reasonable notice to the owner, the city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy.
5. The owner of a site of construction activity is responsible for compliance with the requirements in this subsection. In the case of new subdivisions, builders on individual lots can operate under the developer's NPDES permit if the developer's SWP3 deals with individual lots and the contractor's certification has been signed.
6. Any contractor on a construction site will also be required to use best management practices so as to minimize pollutants that enter into the MS4.
7. All persons shall avoid damaging BMP devices once in place. Any person damaging a BMP device shall be responsible for the repair of the damaged BMP device. Malicious destruction of a BMP device or failure of such responsible person to repair BMP device will be deemed a violation of this Article.

B. Sites Requiring Federal and/or State NPDES Stormwater Discharge Permits. All owners of and contractors on sites of construction activity, that require a federal or state NPDES stormwater discharge permit, or that are part of a common plan of development or sale requiring such permit(s), shall comply with the following requirements (in addition to those in subsection A of this section):

1. Any owner who intends to obtain coverage for stormwater discharges from a construction site under the Kansas general permit for stormwater discharges from construction sites ("the construction general permit") shall submit a signed copy of its notice of intent (NOI) and Stormwater Runoff Management Plan to the Director when a building permit application is made. If the construction activity is already underway upon the effective date of this Article, the NOI shall be submitted within thirty days. When ownership of the construction site changes, a revised NOI shall be submitted within fifteen days of the change in ownership.

2. A stormwater pollution prevention plan (SWP3) shall be prepared and implemented in accordance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this Article and any other Code of this City.
3. The SWP3 shall be prepared by a qualified personnel and shall comply with State NPDES requirements. The signature of the preparer shall constitute his or her attestation that the SWP3 fully complies with the requirements of the permit issued.
4. The SWP3 shall be completed prior to the submittal of the NOI to the Director and for new construction, prior to the commencement of construction activities. The SWP3 shall be updated and modified as appropriate and as required by the NPDES permit.
5. The Director may require any owner who is required by subsection (B)(2) of this section to prepare a SWP3, to submit the SWP3, and any modifications thereto, to the Director for review at any time.
6. Upon the Director's review of the SWP3 and any site inspection that he or she may conduct, if the SWP3 is not being fully implemented, the Director or his or her representative may upon reasonable notice to the owner, deny approval of any building permit, grading permit, site development plan, final occupancy certificate, or any other city approval necessary to commence or continue construction. A stop work order may also be issued.
7. All contractors working on a site subject to a NPDES permit shall sign a copy of the following certification statement before beginning work on the site: "I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges associated with construction activity from the construction site identified as part of this certification and with the stormwater pollution prevention ordinance of the city, and I agree to implement and follow the provisions of the Stormwater Pollution Prevention Plan (SWP3) for the construction site." The certification must include the name and title of the person providing the signature; the name, address, and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. All contractors will be responsible for their own activities to ensure that they comply with the owners' SWP3. Failure to comply with the SWP3 or malicious destruction of BMP devices is deemed to be a violation of this Article.
8. The SWP3 and the certifications of contractors required by subsection (B)(7) of this section, and with any modifications attached, shall be retained at the construction site from the date of construction commencement through the date of final stabilization.

9. The Director may notify the owner at any time that the SWP3 does not meet the requirements of the NPDES permit issued or any additional requirement imposed by or under this Article. Such notification shall identify those provisions of the permit or this Article which are not being met by the SWP3, and identify which provisions of the SWP3 require modification in order to meet such requirements. Within thirty days of such notification from the Director, the owner shall make the required changes to the SWP3 and shall submit to the Director a written certification from the owner that the requested changes have been made.
10. The owner shall amend the SWP3 whenever there is a change in design, construction, operation or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWP3, or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.
11. Qualified personnel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within twenty-four hours of the end of the storm that is one-half inch or greater. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
12. Based on the results of the inspections required by subsection (B)(11) of this section, the pollution prevention measures identified in the SWP3 shall be revised as appropriate. Such modifications shall provide for timely implementation of any changes to the SWP3 within ten calendar days following the inspection.
13. A report summarizing the scope of any inspection required by subsection (B)(11) of this section, and the names(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWP3, and actions taken in accordance with subsection (B)(12) of this section shall be made and retained on site as part of the SWP3. Such report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWP3, the facility's

NPDES permit, and this Article. The report shall be certified and signed by the person responsible for making it.

14. The owner shall retain copies of any SWP3 and all reports required by this Article or by the NPDES permit for the site, and records of all data used to complete the NOI for a period of at least three years from the date that the site is finally stabilized.
15. Upon final stabilization of the construction site, the owner shall submit written certification to the Director that the site has been finally stabilized. The city may withhold the final occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the Director has determined, following any appropriate inspection, that final stabilization has occurred and that any required permanent structural controls have been completed.

14.5.6 Stormwater discharges associated with industrial activity

All operators of: (1) municipal landfills; (2) hazardous waste treatment, disposal, and recovery facilities; (3) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, U.S.C. Section 11023; industrial facilities required to obtain NPDES stormwater discharge permits due to their standard industrial classification or narrative description; and (4) industrial facilities that the Director determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity, shall comply with the following requirements:

- A. Any owner who intends, after the effective date of this Article, to obtain coverage for a stormwater discharge associated with industrial activity under the Kansas general permit for stormwater discharges associated with industrial activity (“the industrial general permit”) shall submit a signed copy of its notice of intent (NOI) to the Director.
- B. When required by their NPDES permit, all industries listed in this section shall prepare a stormwater pollution prevention plan (SWP3) and implement such plan in accordance with the requirements of their state or federal NPDES permit.
- C. The SWP3, when required, shall be prepared and signed by a qualified individual and will comply with all state NPDES requirements. The signature of the preparer shall constitute his or her attestation that the SWP3 fully complies with the requirements of the NPDES permit.
- D. The SWP3, when required, shall be updated and modified as appropriate and as required by the NPDES permit and this Article.
- E. A copy of any NOI that is required by subsection (A)(1) of this section shall be submitted to the city in conjunction with any application for a permit or any other city approval necessary to commence or continue operation of the industrial facility.

F. The Director may require any operator who is required by subsection (A)(2) of this section to prepare a SWP3, to submit the SWP3, and any modifications thereto, to the Director for review.

G. Upon the Director's review of the SWP3 and any site inspection that he or she may conduct, the Director may upon reasonable notice to the owner, deny approval necessary to commence or continue operation of the facility, on the grounds that the SWP3 does not comply with the requirements of the NPDES permit, or any additional requirement imposed by or under this Article. Also, if at any time the Director determines that the SWP3 is not being fully implemented, upon reasonable notice to the owner, he or she may deny approval of any application for a permit or other city approval necessary to commence or continue operation of the facility.

H. The SWP3, if required, with any modifications attached, shall be retained at the industrial facility from the date of commencement of operations until all stormwater discharges associated with industrial activity at the facility are eliminated and the required notice of termination (NOT) has been submitted.

I. The Director may notify the owner at any time that the SWP3 does not meet the requirements of the NPDES permit, or any additional requirement imposed by or under this Article. Such notification shall identify those provisions of the permit or Article, which are not being met by the SWP3, and identify which provisions require modification in order to meet such requirements. Upon thirty days of such notification from the Director, the owner shall submit to the Director a written certification that the requested changes have been made.

J. The owner shall amend the SWP3, if required, whenever there is a change in design, construction, operation or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.

K. As may be required by the facilities NPDES permit, qualified personnel (provided by the owner) shall inspect equipment and areas of the facility specified in the SWP3 at appropriate intervals or as may be specified in their NPDES permit. A set of tracking or follow up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspection shall be maintained.

L. Industrial facilities will implement a sampling and testing program as required by their individual NPDES permits. The Director may require written reports of any such monitoring and testing to be submitted to him or her.

M. The owner shall retain the SWP3 and all sampling and testing reports until at least one year after stormwater discharges associated with industrial activity at the facility are eliminated, or the operator is no longer operating the facility, and a notice of termination (NOT) has been submitted.

N. For discharges subject to the semi-annual or annual monitoring requirements of the industrial general permit, in addition to the records-retention requirements of this Article,

owners are required to retain for a six year period from the date of sample collection, records of all sampling and testing information collected. Owners must submit such monitoring results, and/or a summary thereof, to the Director upon his or her request.

O. After the effective date of this Article, no stormwater discharge shall contain any hazardous metals in a concentration that would result in the violation of any Kansas Surface Water Quality Standard.

14.5.7 Ditches and ponds

A. **Duty to Maintain.** The owner of any private drainage ditch or pond that empties into the city's MS4 or the waters of the United States has a duty to use BMPs on the ditches or pond to minimize the pollutant levels downstream. Such BMPs include, but are not limited to, removing excessive build-up of silt, repairing bank erosion, maintaining vegetative cover, the cleaning of inlet and outlet works, and the like.

B. **Inspection and Notice by City.** The city will periodically inspect these privately owned ditches and ponds. Should conditions be found that cause the pollution of downstream receiving waters, the Director shall so notify the owners, and state what actions are expected by the owners to remedy the problem.

Failure to Repair. Should the owners fail to make the necessary repair within one hundred twenty days after notice, the city is authorized to do the repairs at the expense of the owner. Should the owner fail to reimburse the city for the cost of the repairs upon demand, the city may assess the cost thereof to the owner and initiate any collection proceedings authorized by law.

14.5.8 Compliance monitoring

A. **Right of Entry.** The Director or his or her authorized representatives, shall have the right to enter the premises of any person discharging stormwater to the municipal separate storm sewer system (MS4) or to waters of the United States at any reasonable time to determine if the discharger is complying with all requirements of this Article, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the inspectors ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. The director or his designee is hereby authorized to enter upon premises for all such purposes to perform the duty imposed upon him or her by this Code and may apply to a court of competent jurisdiction for an order granting such entry in the event it is denied.

B. **Records.** Subject to the requirements of subsection A of this section, dischargers shall make available, upon request, any SWP3s, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this Article and with any state or federal discharge permit.

C. Sampling. The Director shall have the right to set up on the discharger's property such devices that are necessary to conduct sampling of stormwater discharges.

14.5.9 Subdivision development

A. The developer of any subdivision requiring a federal or state NPDES stormwater discharge permit will be responsible for obtaining the required permit and developing and implementing an overall SWP3 for the subdivision. Such SWP3 shall include BMPs to be used on individual lot building sites.

B. City contractors installing public streets; water, sanitary sewer, storm sewer lines; and/or sidewalks will be required to comply with the developers' SWP3s and sign the appropriate contractor certification statement. For work in public rights-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the city shall be responsible for obtaining the required permit and preparing and implementing the required SWP3s.

C. Any utility company installing utilities within a new subdivision will also be required to comply with the developers' SWP3's and sign the appropriate contractor certification statement. For work in public rights-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the utility company shall be responsible for obtaining the required permit and preparing and implementing the required SWP3s.

D. The purchasers or individual lots within the subdivision for construction purposes shall comply with the developers' SWP3 and shall sign a certification statement agreeing to do so.

14.5.10 Enforcement actions

A. The discharge of, or potential discharge of, any pollutant to the MS4 or waters of the United States; failure to properly apply for a federal or state stormwater discharge permit; the failure to prepare or implement a SWP3 when required by a federal or state permit; the failure to use effective BMP devices; the malicious destruction of BMP devices; failure to repair BMP devices; the failure to comply with any directive, citation, or order issued under this Article; are violations of this Article for which enforcement action may be taken.

B. The enforcement actions to be taken under this Article are as follows:

1. Criminal Penalty. Any person violating any provision of this Article shall be prosecuted in the City's municipal court as set forth below. First and second offenses shall be prosecuted as code violations punishable by a fine of not more than one thousand dollars. Third and subsequent convictions of violations of the City's stormwater regulations shall be misdemeanors, punished by a fine of not

more than one thousand dollars and/or by imprisonment for not more than six months, or by both such fine and imprisonment. Each and every day during which any violation of any provision of this Article is committed, continued, or permitted is a separate violation.

2. Stop Work Order. Notwithstanding other penalties provided by this Article, whenever the Director, or their designees, finds that any owner or contractor on a construction site has violated, or continues to violate, any provision of this Article or any order issued thereunder, the Director may after reasonable notice to the owner or contractor issue a stop work order to the owner and contractors by posting such order at the construction site. Such order should also be distributed to all city departments and divisions whose decisions may affect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the city associated with the building permit, grading permit, site development plan approval, or any other approval necessary to commence or to continue construction or to assume occupancy at the site. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the violator. Failure to comply with the requirements of any stop work order is a violation of this Article and grounds for refusal to issue the Contractor any construction permits for future projects.
3. Administrative Penalty Process.
 - a. When the Director finds that any stormwater discharger has violated or continues to violate the provisions set forth in this Article, or the discharger's NPDES permit or any order issued thereunder, the Director may issue an order for compliance to the discharger. Such orders may contain any requirements as might be reasonably necessary and appropriate to address noncompliance including, but not limited to, the installation of best management practices, additional self-monitoring, and/or disconnection from the MS4.
 - b. The Director, with the approval of the Governing Body, is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial discharger responsible for noncompliance. Such orders shall include specific action to be taken by the discharger to correct the noncompliance within a time period specified by the order.
 - c. Notwithstanding any other remedies or procedures available to the city, any discharger who is found to have violated any provision of this Article, or any NPDES permit or any order issued under this Article, may be assessed an administrative penalty as follows:
 - i. Failure to properly apply for a required NPDES permit: first offense: five hundred dollars; second and subsequent offenses: two thousand five hundred dollars per violation;

- ii. Failure to prepare stormwater pollution prevention plan: first offense: five hundred dollars; second and subsequent offenses: two thousand five hundred dollars per violation;
- iii. Failure to install best management practices: first offense: two hundred dollars; second and subsequent offenses: one thousand dollars per violation;
- iv. Failure to maintain best management practices: first offense: two hundred dollars; second and subsequent offenses: one thousand dollars per violation;
- v. Failure to perform required sampling and testing or provide testing reports:
first offense: two hundred dollars; second and subsequent offenses: one thousand dollars per violation.

Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Upon assessment of any administrative penalty, the city will bill the violator for such charge and the Director shall have such collection remedies as are available at law. No further construction permits shall be issued to a violator until all such administrative penalties are paid.

14.5.11 Applicability of enforcement actions

- A. Illegal dumping will be subject to criminal penalties process.
- B. Illegal connections will be subject to either the criminal or administrative penalty processes.
- C. Industrial violations will be subject to the administrative penalty process.
- D. Individual building sites not requiring a federal or state NPDES permit will be subject to the criminal penalty and the stop work order processes; however, any owner or contractor of such sites deemed guilty in a court of law of a violation of this Article will also be subject to the administrative penalty process for subsequent violations of this Article.
- E. Individual building sites requiring a federal or state NPDES permit will be subject to the administrative penalty process.
- F. Subdivision developers in subdivisions not requiring a federal or state NPDES permit will be subject to the criminal penalty and stop work order processes; however, any owner or contractor of such sites deemed guilty in a court of law of a violation of this Article will also be subject to the administrative penalty process for subsequent violations of this Article.
- G. Subdivision developers of subdivisions requiring a federal or state NPDES permit will be subject to the administrative penalty process.

- H. City contractors and utility companies working on projects not requiring a federal or state NPDES permit will be subject to the criminal penalty process.
- I. City contractors and utility companies working on projects requiring federal or state NPDES permit will be subject to the administrative penalty process.

14.5.12 Hearing and appeal

Any violator that is subjected to the administrative penalty or stop work order processes may request an administrative hearing and appeal as follows:

- A. Any party affected by a penalty, order, directive or determination issued or made, pursuant to this Article may, within seven days of the issuance of such penalty, order, directive, or determination request a hearing before the Director to show cause why such should be modified or made to not apply to such person. Such request shall be in writing and addressed to the Bel Aire City Clerk, 200 W. Grand, Bel Aire, Kansas, 67060. The Director or his designee shall hold the requested hearing as soon as practical after receiving the request, at which time the person affected shall have an opportunity to be heard. At the conclusion of the hearing, the Director shall issue a written response to the person requesting the hearing affirming, modifying, or rescinding the penalty, order, directive, or determination issued or made.
- B. Any party aggrieved by the decision of the Director may appeal such decision to the Governing Body within seven days of receipt of the decision by filing notice of appeal with the City Clerk. The Governing Body may affirm, modify, or reverse the decision of the Director. Any appeal of the Governing Body's decision shall be as provided by state law.
- C. Any hearing or appeal as described in this section to either the Director or Governing Body shall not be required to conform to the rules of a judicial hearing, shall be deemed an administrative hearing or appeal, and shall allow the aggrieved party an opportunity to explain his/her position. A reasonable time limit may be set upon such hearing.

14.5.13 Enforcement personnel authorized.

The following personnel employed by the city shall have the power to issue notices of violations, criminal citations and implement other enforcement actions under this Article:

- A. The Director and his/her designees;
- B. All authorized code enforcement officers.

14.5.14 Other remedies

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, or any NPDES permit or order issued hereunder, the city attorney may commence an action for appropriate legal and equitable relief including damages and costs in the district court of Sedgwick County. The city attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

14.5.15 Falsifying information

Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article or any NPDES permit, or who falsifies, or tampers with any monitoring device or method required under this Article shall, upon conviction in the City's municipal court, be found guilty of a Class A misdemeanor, punished by a fine of not more than two thousand five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

14.5.16 Supplemental enforcement actions

A. Performance Bonds. Where necessary for the reasonable implementation of this Article, the Director may, by written notice, order any owner of a source of stormwater discharge associated with construction or industrial activity affected by this Article to file a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Article. The city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city permit or approval necessary to commence or continue construction or industrial activity at the site, or to assume occupancy, until such a performance bond has been filed.

B. Liability Insurance. Where necessary for the reasonable implementation of this Article, the Director may, by written notice, order any owner of a source of stormwater discharge associated with construction or industrial activity affected by this Article to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value reasonably determined by the Director, that is sufficient to remediate, restore, and abate any damage to the MS4, the waters of the United States, or any other aspect of the environment that is caused by the discharge.

14.5.17 Severability

If any provision of this Article is invalidated by any court of competent jurisdiction, the remaining provisions of this Article shall remain in full force and effect.

14.5.18 Through 14.5.25 Are Reserved

14.5.26 Procedure for Submission, Review, and Approval of Stormwater Runoff Management Plans; General

No development shall increase the quantity and rates of stormwater emanating from said land areas except in accordance with an approved stormwater management plan as provided in these regulations. The stormwater management plan shall be prepared by a licensed professional engineer in the state. No building permits shall be issued prior to the approval of the stormwater management plan by the Director. The definitions utilized under 15801 et seq. shall be utilized within this portion of the Bel Aire Municipal Code.

14.5.27 Preliminary Stormwater Management Plan

A. A preliminary stormwater management plan shall accompany all preliminary applications for land development. This preliminary plan shall contain but not be limited to the following information and data:

1. A site plan of suitable scale and contour interval showing topographical information of the land to be developed and adjoining land whose topography may affect the proposed layout or drainage patterns for the development. A general plan of final contours of the site development shall also be shown as shall all existing streams, waterways, channels and the extent of the established floodplains;
2. The location and calculated flow rates of all adjacent storm drainage facilities;
3. A general discussion of the type and characteristics of soils contained in the development area;
4. A discussion of the concepts to be considered in the development to handle anticipated stormwater runoff including the methods to be utilized to detain or control increased stormwater runoff generated by the proposed development;
5. A preliminary plan of proposed storm drainage facilities including preliminary calculations of runoff to be handled by such facilities;
6. A discussion of the possible effects that the proposed development could have on areas adjoining the development.

B. Following the receipt of the preliminary stormwater management plan, a general review meeting shall be conducted and shall include the Director and representatives of the developer and the developer's engineer. The City Engineer and City Planner may be included at the discretion of the Director. The purpose of this review shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed development on existing or future adjacent developments.

14.5.28 Final Stormwater Management Plan

A. Following the review of the preliminary stormwater management plan and after the general approval of the preliminary plan by the Director, a final stormwater management plan shall be prepared for each phase of the proposed project as each phase is developed. The submittal of the final plan shall coincide with the application for final approval of the development and shall constitute a refinement of the concepts approved in the preliminary plan. It is important to note that if a project is to be phased, the total area of the conceptual project is to be considered in all calculations and that facilities should be designed for each phase which would be compatible with those of the total development plan. The final stormwater management plan for any development shall include but not be limited to the following additional information unless specifically allowed to be excluded by the Director:

1. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of floodplains and calculated high-water elevations, the shoreline of lakes, ponds, swamps, and detention basins including their inflow and outflow structures, if any;
2. The location and flowline elevation of all existing sanitary and storm sewers, and the location of any existing sewage treatment facilities, which fall within the project limits and within a distance of five hundred feet beyond the exterior boundaries of the project;
3. Detailed determination of runoff anticipated for the entire project site following development indicating design volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine said runoff volumes and rates and review of the criteria which has been used by the design engineer;
4. A layout of the proposed stormwater management system including the location and size of all drainage structures, storm sewers, channels and channel sections, detention basins, and analyses regarding the effect said improvements will have upon the receiving channel and its high-water elevation;
5. The slope, type, size, and flow calculations for all existing and proposed storm sewers and other waterways;
6. For all detention basins, if any, plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;
7. For all detention basins, if utilized, design hydrographs of inflow and outflow for the differential runoff from the site under proposed development conditions;
8. A grading and sediment and erosion control plan for the project site;
9. A profile and one or more cross-sections of all existing and proposed channels or other open drainage facilities, showing existing conditions and the proposed changes thereto, together with the high-water elevations expected from

stormwater runoff under the controlled conditions called for by these regulations and the relationship of structures, streets, and other utilities to such channels.

B. The final stormwater management plan shall be reviewed by the Director. If it is determined according to present engineering practice that the proposed development will provide control of stormwater runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to the public health, safety, and general welfare, the Director shall approve the plan or conditionally approve the plan, setting forth the conditions thereof. If approved, a drainage permit for the development shall be granted. If it is determined that the proposed development will not control stormwater runoff in accordance with these regulations the Director shall disapprove the stormwater management plan. If disapproved, the application and data shall be returned to the applicant for corrective action and resubmittal.

14.5.29 Design Criteria

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

A. **Methods Of Determining Stormwater Runoff.** In determining the amount of stormwater runoff from a development, it is important for the designer to relate the methodology to be used in his calculations to the proportionate size of the tributary watershed area. In developments where the area contributing runoff is twenty-five acres or less, the rational method of calculating the quantity of runoff shall be used. Developments where the area contributing runoff is greater than twenty-five acres and up to two hundred acres shall be designed using the unit hydrograph method. The preferred method of hydrograph development shall be as described in the Soil Conservation Service publication "Urban Hydrology For Small Watersheds" (Technical Release No. 55 - January, 1975). Use of methods other than those described shall be only upon approval of the Director.

B. **Development Design.** Streets, blocks, depth of lots, parks, and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of stormwater into the ground, and to preserve and utilize existing and planned streams, channels and detention basins, and include, whenever possible, streams and floodplains within parks and other public grounds.

C. **Enclosed Systems And Open Channels.** The Design Criteria for Storm Drainage Facilities, latest edition, of the city, which by reference is made a part hereof as though repeated verbatim in this ordinance, shall govern the design of enclosed systems and open channels within the city.

D. **Methods Of Controlling Downstream Flooding.** The Director shall determine whether the proposed plan will cause or increase downstream local flooding conditions. This determination shall be made on the basis of existing downstream development and drainage system capabilities and an analysis of stormwater runoff prior to and after the proposed development. If the Director determines that the proposed development will

cause or increase downstream local flooding conditions during the design storm, provisions to minimize such flooding conditions shall be included in the design of storm drainage improvements and/or the temporary controlled detention of stormwater runoff and its regulated discharge to the downstream storm drainage system.

E. Downstream Improvements. Improvements to minimize downstream flooding conditions may include, but not be limited to, the construction of dams, dikes, levees, and floodwalls; culvert enlargements; and channel clearance and modification projects.

F Detention Basins. Temporary detention of stormwater runoff may be used in developments in order to minimize downstream flooding conditions. Generally, stormwater detention basins shall be designed and constructed for the attenuation of the peak rate of runoff to an amount not greater than that occurring prior to development. Temporary storage facilities will not be required in situations where the installation of such a facility would adversely affect the environment or where the site discharges directly into a major stream or system component. The design of temporary detention facilities shall be in accordance with the following design criteria:

1. Storage volume requirements: Sufficient storage volume shall be provided to prevent local flooding damage. Such volume shall be adequate to contain the differential volume of runoff which would result from the design storm occurring on a fully developed site over the maximum allowable release rate. Inflow rates into the storage basin shall be determined utilizing either the rational method or the unit hydrograph method dependent on the development size limitations and methodologies described in subsection (1) of this section. The minimum rainfall event to be utilized in determining the detention storage volume shall be based upon the planned land usage and intensity within the tributary area and shall be as follows:
 - (a) Residential development, ten-year rainfall event.
 - (b) Commercial and industrial, twenty-five-year rainfall event.
2. Minimum rainfall events shall be based upon the twenty-four-hour point rainfall as indicated in Technical Paper No. 40 published by the Department of Commerce, Weather Bureau.
3. In the event of special circumstances the Director may require the use of storms of greater magnitude. When utilizing the rational method for runoff computations the rainfall intensity (i) and runoff coefficient (c) shall be based upon the area being fully developed in accordance with the planned land usage.
4. Associated with the analysis will be the routing of the storm hydrograph through the basin to determine the effect of the temporary storage on the rate of inflow.
5. As a result of the flood routing procedure, a determination of the required combination to temporary storage volume and outlet control required to reduce post development peak outflows to no more than the maximum allowable release rate may be made.

G. Maximum allowable release rate: The basic design factor used in the determination of the maximum release rate of a detention facility shall be the capability of the downstream system to handle the flow adequately. In general, the maximum release rate shall be defined as the rate of runoff occurring prior to the proposed development taking place and shall be determined mathematically as the runoff resulting from a ten-year return-frequency rainfall calculated using the rational formula. Deviations from the use of this rainfall frequency in design calculations shall be only where approved by the Director. Actual rainfall intensity (i) shall be determined for the time of concentration of the tributary area in its undeveloped and natural state. The runoff coefficient (c) shall likewise be determined for the land in its undeveloped state. In no case shall the release rate exceed the existing "safe" storm drainage capacity of the downstream system or watercourse.

H. Freeboard: The minimum elevation of the top of the detention storage basin embankment shall be at least one foot above the water surface with the emergency spillway flowing at design, or a minimum of two feet above the crest of the emergency spillway.

I. Sediment storage: A sediment storage volume of at least five percent of the total required temporary storage volume for runoff detention shall be provided.

J. Outlet control works: Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation. Size and hydraulic characteristics shall be such that all water in detention storage is released to the downstream storm sewer system within twenty-four hours after the end of the design rainfall.

K. Emergency overflow: A method of emergency overflow shall be designed and provided to permit the safe passage of runoff generated from a one-hundred-year storm.

L. Other design considerations: All stormwater detention basins shall be designed with the capability of passing a one-hundred-year hydrograph from a fully developed watershed basin through the outlet works without causing failure of the embankment. It is not the intent of this requirement to entail any additional reduction of the peak runoff rate, but to assure the integrity and safety of the structure.

M. Design data submittal: In addition to complete plans, the following design data shall be submitted to the Director for all projects including temporary detention facilities:

1. Rainfall hydrograph plotted in units of inches per hour as ordinates, and time from beginning of the storm as abscissas;
2. Runoff hydrograph plotted in units of cubic feet per second runoff rate of the tributary area as ordinates, and time from the start of runoff as abscissas;
3. Area: capacity curve for proposed detention facility plotted in units of datum elevation as ordinates, and cumulative volume of storage as abscissas;
4. Discharge characteristics curve or outlet works plotted in units of detention facility water surface elevation as ordinates, and discharge rate for cubic feet per second (cfs) as abscissas; as ordinates, and time from the start of runoff as abscissas. Curves shall be so arranged that the vertical distance between the accumulated storage and accumulated discharge will indicate the net volume in storage at any point in time. Curves shall be extended to the time required for complete discharge of all runoff stored in the detention facility.

N. Other detention methods: In addition to the above criteria, the following detention methods may be utilized to provide temporary detention storage:

1. Wet-bottom basins: The minimum normal depth of water before the introduction of excess stormwater shall be four feet. If fish are to be used to keep the basin clean, at least one quarter of the area of the permanent pool must have a minimum depth of ten feet. For emptying purposes, cleaning or shoreline maintenance, facilities shall be provided or plans prepared for the use of auxiliary equipment to permit emptying and drainage. All surface area within the fluctuating limits of the basin storage or that which is susceptible to or designed as overflow areas from storms with a higher return frequency than those utilized in the design of the facility shall be seeded and mulched, sodded or paved.
2. Dry-bottom basins: Where possible these shall be designed to serve secondary purposes for recreation, open space or other types of use which will not be adversely affected by occasional or intermittent flooding. To facilitate interior drainage, concrete paved swales shall be required from the inflow to the outlet structures.
3. Rooftop storage: Detention storage may be met in total or in part by detention on roofs. Details of such designs, which shall be included in the drainage permit applications, shall include the depth and volume of storage, details of outlet devices and downdrains, elevations of overflow scuppers, design loadings for the roof structure and emergency overflow provisions.
4. Paved parking lots: May be designed to provide temporary storage of stormwater on all or a portion of their surfaces to a maximum depth of nine inches. Outlets will be designed so as to empty the stored waters in such a time to create the least amount of inconvenience to the public. Minimum slopes of one percent and maximum slopes of four percent are to be utilized. The minimum freeboard from the maximum water ponding elevation to lowest sill elevation of adjacent buildings or structures shall be one foot.

14.5.30

Performance Standards

A. Stormwater Channel Location. Generally acceptable locations of stormwater runoff channels in the design of a subdivision may include but not be limited to the following:

1. In a depressed median of a double roadway, street, or parkway provided the median is wide enough to permit maximum three-to-one side slopes;
2. Centered on back lot lines or entirely within the rear yards of a single row of lots or parcels;

3. In each of the foregoing cases, a drainage easement to facilitate maintenance and design flow shall be provided and shown on the plat. No structures will be allowed to be constructed within or across stormwater channels.

B. Storm Sewer Outfall. The storm sewer outfall shall be designed so as to provide adequate protection against downstream erosion and scouring.

C. Lot Lines. Whenever the plans call for the passage and/or storage of floodwater, surface runoff, or stormwater along lot lines, the grading of all such lots shall be prescribed and established for the passage and/or storage of waters. No structure may be erected in these areas which will obstruct the flow of stormwater. Additionally, installation of fences and the planting of shrubbery or trees within the areas will not be permitted. Changes in the grade and contours of the floodwater or stormwater runoff channels will not be permitted unless approved in writing by the Director.

D. Manholes. All sanitary sewer manholes constructed in a floodplain or in an area designed for the storage or passage of flood-water or stormwater shall be provided with either a watertight manhole cover or be constructed with a rim elevation of one (1) foot above the high water elevation of the design storm, whichever is applicable to the specific area.

E. Easements. Permanent easements for the detention and conveyance of stormwater, including easements of access to structures and facilities, shall be dedicated to the city.

F. Drainage Permits. A drainage permit for projects including detention facilities can be granted by the Director only after the final stormwater management plan has been approved and all easements have been dedicated, accepted, and recorded, and all required maintenance assurances and required bonds have been executed.

14.5.31 General Information Concerning Plans For Grading and Sedimentation And Erosion Control

A. Prior to the approval and recording of the final subdivision or land development plan, a plan depicting proposed site grading within the development shall be submitted to the Director for review and approval.

B. Stripping of vegetation or earthmoving shall not be permitted nor will building permits be issued prior to approval of this plan by the Director.

C. For major subdivision developments consisting of more than ten lots, the grading plan shall be accompanied by a detailed sedimentation and erosion control plan.

14.5.32 Grading Plan--Subdivision

The grading plan shall be prepared by a licensed professional engineer in the state. The contents of the plan shall include but not be limited to the following information:

A. Contours of existing grades at intervals not more than five feet. Intervals less than five feet may be required dependent on the character of the topography;

- B. Property lines identified as to existing or proposed lot and block number;
- C. Elevation and location of nearest bench mark (U.S.G.S. datum);
- D. Final grading contours drawn at sufficient intervals of not more than five feet to depict major subdivision drainage patterns. In addition, final grading spot elevations shall be shown for all corners of each lot. Such corner elevations shall be general in nature and upon approval of the Director may be revised at the time of plot plan submittal;
- D. One-hundred-year floodplain line with elevation;
- E. Easement and right-of-way information including drainage easements required for off-site drainage ways;
- F. Existing or proposed utility information.

14.5.33 Grading Plan--Individual Lots

Applications for individual building permits shall be accompanied by a specific grading plan for that lot. Such grading plan shall be incorporated into the plot plan and shall contain as a minimum, the following information:

- A. Property lines identified as to existing or proposed lot and block number, and/or proposed or assigned street address with distances to property Lines, building setback lines, easements;
- B. Proposed location of structure;
- C. Proposed type of structure (i.e. bi-level, split-level, etc.);
- D. Elevations of the top of foundation, proposed grade at principal structure corners and at lot corners, flowline of adjacent gutters, elevations of culverts, inlets, if applicable, and lowest opening "minimum pad elevation", if applicable;
- E. Approximate location of drainage swales indicated by directional arrows depicting flow patterns. Spot elevations may be utilized in lieu of arrows. Additional information may be required by the Director to assure protection of adjacent property.

14.5.34 Minimum Grading Standards

A. The following minimum criteria for site grading shall apply to all applications for site grading:

- 1. Protective slopes around structures:
 - a. Downward slope from structure foundations to drainage swales,
 - b. Minimum gradients:
 - i. Impervious surfaces shall be one-eighth inch per foot (one percent),
 - ii. Pervious surfaces shall be one-fourth inch per foot (two percent),

- c. Maximum gradient shall be four horizontal to one vertical for a minimum four feet from foundation walls;

2. Lawn areas:

- a. Minimum gradient shall be one-eighth inch per foot (one percent),
- b. Maximum gradient shall not be greater than three horizontal to one vertical;

3. Driveways sloping toward buildings shall be graded in such a manner as to provide an intercepting swale draining away from the structure prior to its connection with the building.

B. In specific cases the use of gradients less than or greater than those specified may be required. Variance from these requirements may be allowed where justified and approved by the Director.

14.5.35 Sediment and Erosion Control

In major developments, or as specifically required by the Director, a detailed sediment and erosion control plan shall accompany all grading plan applications. The implementation of the approved plan shall be concurrent with site grading activities for the proposed development and shall remain in effect until the completion of the subdivision or development. The plan submitted shall address the type and characteristics of the soils within the development and an indication shall be made of the potential erodibility of the site during construction operations. Methods to prevent sedimentation and erosion of the site shall include, but not be limited to, chemical treatment of the soil, siltation basins, mulches and netting. Protective measures proposed to be utilized should be dependent upon the degree of erodibility of the site.

14.5.36 Appeals

Any person aggrieved by a decision of the enforcement officer regarding enforcement of this Article shall have the right to an administrative review in conformance with Article 6 of this Chapter.

14.5.37 Penalty for Violations--Actions

The violation of any provision of this Article is a misdemeanor, enforceable under any of the provisions of Article 6 of this Article, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00).

[remainder of page intentionally left blank]

imminent health hazard exists, cause the water service to the building or premises to be disconnected. All regular water disconnect/reconnect fees and provisions shall apply.

B. Violation of any provision of this Chapter is grounds for prosecution of the property owner, resident, account holder, permit holder, or any other responsible party.

C. The prosecution and/or imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action to restrain, correct, or abate a violation of this Chapter as a civil or administrative action, and specific authority for such is hereby granted to take any action or impose any penalty allowed by the State law, this Chapter or any provision of this Code.

D. Violation of those sections of this Chapter associated with the installation, permitting, connection, or tap-on to the water system, is grounds for immediate revocation of an occupancy permit by the City.

Section 14.6.5 Notice of Violations

A. Notice of violation means a written notice provided to the owner, occupant or contractor associated with the property detailing any violations of this Chapter and any corrective action required. Such notices shall:

- (1) Be in writing;
- (2) Particularize the violations alleged to exist or to have been committed;
- (3) Provide a reasonable time for the correction of the violations particularized;
- (4) Be served upon the owner, and the occupant or contractor as applicable, of the premises by one or more of the following methods of service: personal service upon a resident of the property of lawful age, posting upon the property, door hanger, regular and/or registered mail, or publication. Non-resident owners shall be notified by registered mail, return receipt requested, and by separate letter sent by regular mail.

B. Notwithstanding any other provision of this Chapter or of law, any and all notices required by this Chapter which may be served upon tenants shall also be served upon the record owner of title to the property. Should there occur a change in the record owner of title to property subsequent to the giving of notice pursuant to this section, the City may not recover any costs of abatement or levy an assessment for costs of abatement unless the new record owner of title to such property has been provided notice as required by this Chapter, which may include notice of assessment filed with the appropriate agencies of Sedgwick County. Additionally, notices under this Chapter may be sent to prospective purchasers associated with any property in violation of this Chapter which is under a pending contract.

Section 14.6.6 Administrative Hearing/Review

Any person wishing to contest the notice to correct a violation has the right to an administrative review by the City Manager. Such review must be requested in writing and the request must be received at the office of the City Clerk, no later than three (3) working days prior to the deadline for correction. The form of the administrative review shall typically be a review of all written documentation submitted by the party requesting such review, and all documentation maintained by the Code Enforcement Officer. When appropriate, the City Manager may request that the parties meet informally to provide oral testimony to supplement such written information. Such meeting need not conform to any rules of judicial hearings.

The decision of the City Manager shall be final and any further appeal of such decision shall be to the Eighteenth Judicial District Court of the state of Kansas by way of the provisions of K.S.A. 60-2101(d).(Ord. 292)

Section 14.6.7 Uniform Complaint and Notice to Appear.

In addition to the notice provided for in section 16.5.5, the enforcing officer may commence prosecution of such violation by issuing to the owner, occupant or agent in charge of the property a uniform complaint and notice to appear charging a violation of any section of this Chapter.

Section 14.6.8 Violations, Penalties.

Penalties associated with conviction of violation of any provision of this Chapter shall be in accordance with the general penalty provisions of this Code, unless a specific penalty provision shall have been made applicable to any specific section of this Chapter.

Each day of violation shall constitute a separate offense.

Section 14.6.9 Abatement; Assessment of Costs.

A. If within five (5) days after receipt of the notice required by Section 16.6.5, or any other provision of this Chapter, the owner, occupant or agent in charge of the premises neglects or fails to comply with the directives contained in the notice, and such owner, occupant, or agent in charge fails to timely file a request for administrative review as provided in section 16.6.6, the enforcing officer may abate any violation, when such code enforcement officer deems the immediate abatement necessary to protect the health, safety, and welfare of any individual, property, or the community. The City and/or any authorized contractor shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property. If the property owner is a nonresident, abatement shall take place either five days following the date of receipt provided on the return receipt of mailing, or ten days following the date of publication in the City's newspaper, whichever date is first.

B. The costs incurred by the City for any action undertaken by the enforcing officer

pursuant to or incidental to this section of this Chapter shall be reported in detail and in writing by said officer to the city clerk. The city clerk shall keep an account of such costs, as well as any and all costs of notices, service and/or mailing of notices and publication of notices, required by this Chapter. The city clerk shall immediately cause the reporting and accounting required by this section to be entered in the appropriate city record and shall report the same to the governing body.

C. The city clerk shall, within ten (10) days of receipt of the enforcing officer's report of costs, give notice by restricted mail to the owner, occupant or agent in charge of the property of the costs required to be reported by subsection B of this section and such notice shall include a statement requiring payment of the costs to the City within thirty (30) days following receipt of such notice. Should the owner, occupant or agent in charge of the property refuse to take delivery of the notice and return is made to the City indicating such refusal, the city clerk shall send to the owner, occupant or agent in charge of the property, by first class mail, the notice previously sent and receipt by the owner, occupant or agent in charge of the property shall be deemed to have occurred upon such mailing. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice.

D. Should the costs remain unpaid after thirty (30) days of receipt of the notice provided for in this Chapter, the city clerk shall, at the time required by law for certification of other city taxes, certify the unpaid portion of said costs to the Sedgwick County Clerk for extension of the same on the county tax rolls against the property upon which the weeds were located.

E. In addition to levying a special assessment against the property upon which the violation(s) was/were located as provided for in this section, the City may also elect to collect the unpaid portion of the costs provided for in herein in the manner provided by K.S.A. 12-1,115 and amendments thereto, and may pursue such remedy without limiting its ability to levy special assessment, but only until such time as the full costs and any applicable interest has been paid in full.

Section 14.6.10 Authorization to Contract For Services.

In the event the owner, occupant or owner's agent fails to comply as set forth in this article and it becomes necessary for the enforcing officer to remove and abate the violation(s), such officer is hereby authorized to contract with a service agent for and obtain such services and equipment, public or private, as the enforcing officer deems necessary and appropriate to complete the tasks enumerated herein, and the enforcing officer shall adhere to and comply with all applicable laws, regulations, ordinances and city policies concerning the procurement of services.

Section 14.6.11 **Liability**

Requirements of this Chapter shall not be construed as imposing on the City, its officers, agents, or employees, any liability or responsibility for any damages to any property or any injury to any person due to defective installation or any other reason.

Section 14.6.12 **Severability**

If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.