



**** AGENDA ****

City Commission Study Session

Wednesday, January 26, 2022

Municipal Court Room

518 Mechanic Street

10:00 a.m.

- Update from Empower House Ministries.
- Post Construction Stormwater Ordinance Discussion.
- Discuss Sewer Use Ordinance and Industrial Pretreatment Program.
- Discuss 12th Avenue Elevated Storage Tank Logo.
- Discuss Change Order No. 1 for Public Works Center Pavement Improvements Project for Addition to Existing Drainage.
- Discuss Change Order No. 2 for Public Works Center Pavement Improvements Project for 10ft. additional concrete in eastside of Sanitation Barn.
- Update on Strategic Planning.

No Luncheon

Tentative Agenda for February 2nd Commission Meeting at 1:30 p.m.

- ORDER OF BUSINESS
- PROCLAMATIONS
 - Proclamation Recognizing Emporia State University Founders Day.
- PUBLIC FORUM
- NEW BUSINESS
 - 1. Approve Maintenance agreement with Emporia Public Library.
 - 2. Discuss Sewer Use Ordinance and Industrial Pretreatment Program.
 - 3. Approve CAMSO ICA.
- COMMUNICATIONS
- CONSENT AGENDA
- INFORMATIONAL ITEMS
- GOVERNING COMMENTS

**If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact Jeff Lynch, City of Emporia ADA Coordinator at least 48 hours before the event at 620-343-4275 or jlynch@emporia-kansas.gov*

Engineering Department

Memo

To: City Commission
From: Jim Ubert *JUBERT*
Date: January 19, 2022
Re: Post Construction Stormwater Ordinance Discussion

The requirements for the City's MS4 Stormwater Discharge permit from KDHE will get more stringent beginning in 2022. A Post Construction Stormwater Ordinance (draft will be provided by Engineering staff) will provide some additional points toward the yearly goal KDHE has established in order for the City to keep up with the program revisions and therefore renew this yearly permit.

POST CONSTRUCTION STORM WATER ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A POST CONSTRUCTION MANAGEMENT SYSTEM FOR THE CITY OF EMPORIA, KANSAS; INCLUDING AREAS OF APPLICABILITY, OBJECTIVES, AND CRITERIA: AN AMENDING THE CODE OF THE CITY OF EMPORIA, KANSAS, 1983, BY ADDING ARTICLE IV, CHAPTER 10 THERETO.

BE IT ORDDAINED by the Governing Body of the City of Emporia, Kansas

Section 1. The Code of the City of Emporia, Kansas, 1983 is here by amended by adding an Article IV to Chapter 10, which said Article reads as follow:

ARTICLE IV. POST CONTRUSTION STORMWATER MANAGEMENT SYSTEM

Section 10-80 Adoption of "Post Construction Storm Water Best Management Practices" Manual.

(A) The City hereby adopts by reference the document "Post Construction Storm Water Best Management Practices" Manual authored in April 2009 by Wilson & Company and CDM for the Kansas Stormwater Consortium, of which the City of Emporia is a member.

Section 10-81 Applicability and Exemptions.

(A) This ordinance shall be applied to all land disturbing activities, unless exempt pursuant to the Section that follow. The stormwater management regulations presented within shall be applied to any new development or redevelopment activity that meets one or more of the following criteria:

- (1) New development that involves the creation of (5,000 square feet or more) of impervious cover or that involves other land disturbing activates of (one acre or more);*
- (2) Redevelopment that involves the creation and/or addition of (5,000 square feet or more) of impervious cover or that involves other land disturbing activities of (one acre or more).*
- (3) New development or redevelopment, regardless of size, that is part of a larger common plan of development (in totality of one acre or more), even though multiple, separate and distinct land disturbing activities may take place at different times and on different schedules.*

- (4) New development or redevelopment, regardless of size, that involves the creation or modification of a stormwater hotspot, as defined by the (administrator).

(B) The following activities are exempt from the ordinance:

- (1) New development or redevelopment activities on individual residential lots that are not part of a larger common plan of development and do not meet any of the applicability criteria listed above.
- (2) Additions or modifications to existing single-family homes and duplex residential units that do not meet any of the applicability criteria listed above.
- (3) Development projects that are undertaken exclusively for agricultural or silvicultural purposes within areas zoned for agricultural or silvicultural land use;
- (4) Maintenance and repairs of any green infrastructure or stormwater management practices deemed necessary by the (administrator);
- (5) Any part of the land development project that was approved by the (administrator) prior to the adoption of this ordinance; and
- (6) Redevelopment activities that involve the replacement of impervious cover of equal or lesser area.

Section 10-82 Designation of Ordinance Administrator

The City Engineer is hereby appointed to administer and implement the provisions of this ordinance.

Section 10-83 Compatibility with Other Regulations

This ordinance is not intended to interfere with, modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 10-84 Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be judge invalid by a court of competent jurisdiction, such judgement shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

Section 10-85 Post Construction Manual

The City of Emporia will utilize the information presented in the latest edition of Post Construction Storm Water Best Management Practices authored in April 2009 by Wilson & Company and CDM for the Kansas Stormwater Consortium and the City of Emporia, and any relevant local addenda, to assist in the proper implementation of this ordinance. These references may be updated and expanded periodically, based on additional information obtained through scientific research, performance monitoring and local experience.

Section 10-86 Definitions

“Applicant” means a property owner or agent of a property owner who has submitted an application for a post-construction stormwater management permit.

“Aquatic Buffer” means an area of land located around or near a stream, wetland, or waterbody that has intrinsic value due to the ecological services it provides, including pollutant removal, erosion control and conveyance and temporary storage of flood flows.

“Aquatic Resource Protection” means measures taken to protect aquatic resources from several negative impacts of the land development process, including complete loss or destruction, stream channel enlargement and increased salinity fluctuations.

“Better Site Design Techniques” means site design techniques that can be used during the site planning and design process to minimize land disturbance and the creation of new impervious and disturbed pervious cover. Better site design techniques include reducing clearing and grading limits, reducing roadway lengths and widths and reducing parking lot and building footprints.

“Better Site Planning Techniques” means site planning techniques that can be used during the site planning and design process to protect valuable aquatic and terrestrial resources from the direct impacts of the land development process. Better site planning techniques include protecting primary and secondary conservation areas.

“Building” means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property and occupying more than 100 square feet or area.

“Channel” means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

“Conservation Areas” means permanently protected areas of a site that are preserved, in perpetuity, in an undisturbed, natural state.

“Conservation Easement” means a legal agreement between a land owner and a local, state, or federal government agency or land trust that permanently protects conservation areas on the owner’s land by limiting the amount and type of development that can take place within them but continues to leave the conservation areas in private ownership.

“Dedication” Means the deliberate appropriation of property by its owner for general public use.

“Detention” means the temporary storage of stormwater runoff in a stormwater management practice for the purpose of controlling the peak discharge rates and providing gravitational settling of pollutants.

“Developer” means a person who undertakes a land development project.

“Development Project” means a new development or redevelopment project.

Development Site” means a parcel of land where land disturbing activities have been or will be initiated to complete a land development project.

“Drainage Easement” means a legal right granted by a land owner to a grantee allowing the grantee to convey, treat or manage stormwater runoff on the private land subject to the drainage easement.

“Easement” means a legal right granted by a land owner to a grantee allowing the use of private land for conveyance, treatment and management of stormwater runoff and access to green infrastructure and stormwater practices.

“Erosion and Sediment Control Plan” means a plan that is designed to minimize and control the accelerated erosion and increased sediment loads that occur at a site during land disturbing activities.

“Evapotranspiration” means the loss of water to the atmosphere through both evaporation and transpiration, which is the evaporation of water from the aerial parts of plants.

“Extended Detention” means the temporary storage of stormwater runoff in a stormwater management practice for an extended period of time, typically 24 hours or greater.

“Extreme Flood Protection” mean measures taken to protect downstream properties from dangerous extreme flooding events and help maintain the boundaries of the existing 100-year floodplain.

“Fee in Lieu Contribution” means a payment of money in place of meeting all or part of the stormwater management criteria required by a post-construction stormwater management ordinance.

“Flooding” means a volume of stormwater runoff that is too great to be confined within the banks of a stream, river or other aquatic resource or walls of a stormwater conveyance feature and that overflows onto adjacent lands.

“Green Infrastructure Practices” means the combination of three complementary, but distinct, groups of natural resource protection and stormwater management practices and techniques, including better site planning and design techniques and low impact development practices, that are used to protect valuable terrestrial and aquatic resources from the direct impacts of the land development process, maintain pre-development site hydrology and reduce post-construction stormwater runoff rates, volumes and pollutant loads.

“Hydrologic Soil Group (HSG)” means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

“Impaired Waters” means those streams, rivers, lakes, estuaries and other water bodies that currently do not meet their designated use classification and associated water quality standards under the Clean Water Act.

“Impervious Cover” means a surface composed of any material that greatly impedes or prevents the natural infiltration of water into the underlying native soils. Impervious surfaces included, but are not limited to, rooftops, buildings, sidewalks, driveways, streets, and roads.

“Industrial Stormwater Permit” means a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

“Infill Development” means land development that occurs within designated areas based on local land use, watershed and/or utility plans where the surrounding area is generally developed, and where the site or area is either vacant or has previously been used for another purpose.

“Infiltration” means the process of allowing stormwater runoff to percolate into the underlying native soils.

“Infiltration Practice” means a green infrastructure or stormwater management practice designed to provide infiltration of stormwater runoff into the underlying native soils. These stormwater management practices, stormwater conveyance features and stormwater drain infrastructure on a development site.

“Inspection and Maintenance Agreement and Plan” means a written agreement and plan providing for the long-term inspection and maintenance of all green infrastructure practices, stormwater management practices, stormwater conveyance features and stormwater drain infrastructure on a development site.

“Jurisdictional Wetland” means any project undertaken to change or improve a site that involves one or more land disturbing activities.

“Land Development” means any project undertaken to change or improve a site that involves one or more land disturbing activities.

“Land Disturbing Activity” means any activity that changes stormwater runoff rates, volumes and pollutant loads on a site. These activities include, but are not limited to, the grading, digging, cutting, scraping, or excavating of soil, the placement of fill materials, paving, construction, substantial removal of vegetation and any activity that bares soil or rock or involves the diversion of piping of any natural or man-made watercourse.

“Land Owner” means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

“Low Impact Development Practice” means small-scale stormwater management practices that are used to disconnect impervious and disturbed pervious surfaces from the storm drain system and reduce post-construction stormwater runoff rates, volumes and pollutant loads. Low impact development practices include soil restoration, site reforestation/revegetation, green roofs, vegetated filter strips and rain gardens.

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the EPA, or by a State under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

“New Development” means a land development project undertaken on a previously undeveloped or unimproved site.

“Nonpoint Source Pollution” means pollution from any source other than from a discernible, confirmed and discrete conveyance, such as a wastewater treatment plant or industrial discharge. Sources of nonpoint source pollution include, but are not limited to, agricultural, silvicultural, mining and construction activities, subsurface disposal and urban stormwater runoff.

“Nonstructural Stormwater Management Practice” means any natural resource protection or stormwater management practice or technique that uses natural processes and natural systems management practices include, but are not limited to, protecting primary and secondary conservation areas, reducing clearing and grading limits, reducing roadway lengths and widths, reducing parking lot and building foot prints, soil restoration, site reforestation/revegetation, green roofs, vegetated filters trips and rain gardens.

“Off-site Stormwater Management Practice” means a green infrastructure or stormwater management practice located outside the boundaries of development site.

“On-Site Stormwater Management Practice” means a green infrastructure or stormwater management practice located within the boundaries of a development site.

“Overbank Flood Protection” means measures taken to protect downstream properties from damaging overbank flooding events.

“Owner” means the legal or beneficial owner of a piece of land, including, but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

“Permanent Stormwater Management Practice” means a green infrastructure or stormwater management practice that will be operational after the land disturbing activities are complete and that is designed to become a permanent part of the site for the purposes of managing post-construction stormwater runoff.

“Permit” means the permit issued by a local development review authority to an applicant, which is required for undertaking any land development project or land disturbing activities.

“Person” means any individual. Partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision, any interstate body, or any other legal entity.

“Post-Development Hydrology” refers to the set of hydrologic conditions that may reasonably be expected to exist on a development site, after the completion of all land disturbing and construction activities.

“Pre-Development Hydrology” refers to the set of hydrologic conditions that exist on a development site prior to the commencement of any land disturbing activities and at the time that plans for the land development project are approved by the local development review authority.

“Receiving Stream” or **“Receiving Aquatic Resource”** means the body of water or conveyance into which stormwater runoff is discharged.

“Recharge” means the replenishment of groundwater aquifers.

“Redevelopment” means a change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving, or excavating, but excluding ordinary maintenance activities, remodeling of buildings on the existing footprint, resurfacing of paved areas and exterior changes or improvements that do not materially increase or concentrate stormwater runoff or cause additional nonpoint source pollution.

“Regional Stormwater Management Practice” means a stormwater management practice designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may participate in providing land, financing, design services, construction services and/or maintenance services for the practice.

“Responsible Party” 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 that is named on a stormwater inspection and maintenance agreement and plan as responsible for the long-term operation and maintenance of one or more green infrastructure or stormwater management practices.

“Site” means development site.

“Stop Work Order” means an order issued that requires that all land disturbing activity on a site be stopped.

“Stormwater Hotspot” means an area where land use or pollution generating activities have the potential to generate highly contaminated runoff. With concentrations of pollutants in excess of those typically found in stormwater runoff. Stormwater hotspots include, but are not limited to, fueling stations (including temporary fueling stations during construction), golf courses, public works yards and marinas.

“Stormwater Management” means the interception, conveyance, treatment and management of stormwater runoff in a manner that is intended to prevent increased flood damage, channel erosion, habitat degradation and water quality degradation and to enhance and promote the public health, safety and general welfare.

“Stormwater Management Practice” means a practice or technique, either structural or nonstructural, which is used to intercept stormwater runoff and change the characteristics of that runoff. Stormwater management practices are used to control post-construction stormwater runoff rates, volumes and pollutant loads to prevent increased flood damage, channel erosion, habitat degradation and water quality degradation.

“Stormwater Management System” means the entire suite of green infrastructure and stormwater management practices and stormwater conveyance features that are used to intercept, convey, treat and manage stormwater runoff on a development site.

“Stormwater Retrofit” means a green infrastructure or stormwater management practice designed for an existing development site that previously has not green infrastructure or stormwater management practice in place or had a practice that was not meeting local stormwater management criteria.

“Stormwater Runoff” means surface water resulting from precipitation.

“Stormwater Runoff Reduction” means providing for the interception, evapotranspiration, infiltration, or capture and reuse of stormwater runoff to help maintain pre-development site hydrology and help protect aquatic resources from several indirect impacts of the land development process, including decreased groundwater recharge, decreased baseflow and degraded water quality.

“Subdivision” means the division of a parcel of land to create one or more new lots or development sites for the purpose, whether immediately or in the future, of sale, transfer of ownership, or land development, and includes divisions of land resulting from or made in connection with the layout or construction of a new street or roadway or a change in the layout of an existing street or roadway.

“Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

“Watershed Management Plan” or **“Subwatershed Management Plan”** means a document usually developed cooperatively by government agencies and other stakeholders, to protect, restore and/or otherwise manage the water resources found within a particular watershed or subwatershed. Watershed or subwatershed management plans commonly identify threats, sources of impairment, institutional issues and technical and programmatic solutions or projects to protect and/or restore water resources.

“Water Quality Protection” means adequately treating stormwater runoff before it is discharged from a development site to help protect downstream aquatic resources from water quality degradation.

“Wetland Hydroperiod” means the pattern of fluctuating water levels within a wetland caused by the complex interaction of surface water, groundwater, topography, soils and geology within a wetland.

Section 10-87 Permit Procedures and Requirements

(A) Permit Application Requirements

No owner or developer shall undertake any development activity without first meeting the requirements of this ordinance and receiving a permit for the proposed development activity from the City of Emporia. Unless specifically exempted by this ordinance, any owner proposing a development (in accordance with Section 10-81) that meets the criteria of project shall submit to the City of Emporia a permit application on a form provided by the City of Emporia. Unless otherwise exempted by this ordinance, the following items shall accompany a permit application:

1. Stormwater management concept plan prepared in accordance with Section 10-87.B;
2. Record of consultation meeting held in accordance with Section 10-87.C;
3. Stormwater management design plan prepared in accordance with Section 10-87.D;
4. Stormwater management system inspection and maintenance agreement and plan prepared in accordance with Section 10-87.E;
5. Permit application and plan review fees prepared in accordance with Section 10-87.F and 10-87.G; and;
6. Performance bond prepared in accordance with Section 10-87.H.

(B) Stormwater Management Concept Plan

Prior to the preparation and submittal of a stormwater management design plan and permit application, the owner or developer shall submit to the City of Emporia for review and approval, a stormwater management concept plan illustrating the layout of the proposed development project and showing, in general, how post-construction stormwater runoff will be managed on the development site.

The stormwater management concept plan shall include the following information:

Project Narrative: The project narrative shall include a vicinity map, the common address of the development site and a legal description of the development site.

Site Fingerprint: The site fingerprint shall illustrate the results of the natural resources inventory (Section 4.1), which is used to identify and map the natural resource found on the development site, as they exist prior to the start of any land disturbing activities.

Post-Construction Stormwater Management System Narrative: The post-construction stormwater management system narrative shall include information about how post-construction stormwater runoff will be managed on the development site, including a list of the low impact development and stormwater management practices that will be used. It shall also include calculations showing how initial estimates of the post-construction stormwater management criteria that apply to the development project were obtained, including information about the existing and proposed conditions of each of the drainage areas found on the development site (e.g., size, soil types, and land cover characteristics).

(C) Consultation Meeting

All applicants are encouraged to hold a consultation meeting with the City of Emporia to discuss the proposed development project, the stormwater management concept plan and the approach that was used to satisfy the post-construction stormwater management and site planning and design criteria that apply to the development site. This consultation meeting shall take place on-site or at the City of Emporia after submittal, but prior to approval, of the stormwater management concept plan, for the purposes of verifying site conditions and the feasibility of the stormwater management concept plan.

(D) **Stormwater Management Design Plan**

Subsequent to approval of the stormwater management concept plan, the owner or developer shall submit to the City of Emporia for review and approval, a post-construction stormwater design plan that details how post-development stormwater runoff will be controlled or managed on the development site. The stormwater management design plan shall detail how the proposed development project will meet the post-construction stormwater management and site planning and design criteria that apply to the development site.

1. **Post-Construction Stormwater Management System Plan:** The post-construction stormwater management system plan shall illustrate:
 - (a) Proposed topography;
 - (b) Proposed drainage divides and patterns;
 - (c) Existing and proposed roads, buildings, **parking areas** and other impervious surfaces;
 - (d) Existing and proposed **primary and secondary conservation areas**;
 - (e) Plan view of existing and **proposed low impact development** and stormwater management practices;
 - (f) **Cross-sections and profile views of existing and proposed low impact development and stormwater management practices, including information about water surface elevations, storage volumes and inlet and outlet structures (e.g., orifice sizes)**;
 - (g) **Existing and proposed channel modifications (e.g., bridge or culvert installations)**.
2. **Post-Construction Stormwater Management System Narrative:** The post-construction stormwater management system narrative shall include information about how post-construction stormwater runoff will be managed on the development site, including a list of the **low impact development and stormwater management practices** that will be used. It shall also include **documentation** and calculations that demonstrate how the selected low impact development and stormwater management practices satisfy the post-construction stormwater management criteria that apply to the development site, including information about the existing information about the existing and proposed conditions of each of the drainage area found on the development site (e.g., size, soil types, land cover characteristics).
3. **Certification by Plan Preparer:** The stormwater management design plan shall be prepared by a certified design professional, such as a professional engineer, who must certify that the design of the stormwater management system meets the requirements of this ordinance and the latest edition of the Post-Construction Stormwater Best Management Practices, and any relevant local addenda.

4. Certification by owner: The owner shall certify that all land disturbing and development activities will be completed in accordance with the approved stormwater management design plan.

A copy of post-construction concept plan shall be included with the submittal of the stormwater management design plan. The stormwater management design plan should be consistent with stormwater management concept plan. If any significant changes were made to the plan of development, the (administrator) may ask for clarification as to the rationale for any of the changes that were made.

(E) Stormwater Management System Maintenance

1. Stormwater Management Systems for developments shall be platted in Reserves dedicated for such use and owned and maintained by said Lot owner or a designated property owner's association (that shall be binding on all subsequent owners of the site), unless the stormwater management system is dedicated to and accepted by the City of Emporia
2. City of Emporia Stormwater Inspection Program. The City of Emporia performs annual/biannual/periodic inspection of approved stormwater system facilities with the City's corporate limits.
 - (a) The property owner shall provide corrective maintenance as identified in said City of Emporia inspection upon written notification from the City of Emporia;
 - (b) A statement confirming that responsibility for the operation and maintenance of the stormwater management system, unless assumed by the City of Emporia, shall remain with the property owner and shall pass to any successive owner;
 - (c) A provision stating that, if portions of the development site are sold or otherwise transferred, legally binding arrangements shall be made to pass responsibility for the operation and maintenance of the stormwater management system to the appropriate successors in title; these arrangements shall designate, for each portion of the stormwater management system, the person(s) to be permanently responsible for its inspection and maintenance;
3. In addition to enforcing the terms of the inspection and maintenance agreement and plan, the City of Emporia may also enforce all of the provisions for ongoing inspection and maintenance contained in Section 6.0 of this ordinance.
4. The permit for construction of the stormwater management system for developments shall provide for the City of Emporia to enter the property at reasonable times and in a reasonable manner for the purpose of inspection of said stormwater system. These terms include the right to enter a property when the (local jurisdiction) has a reason to believe that a violation of an approved stormwater management system has occurred and when necessary for abatement of a public nuisance or correction of a violation of this ordinance or an approved stormwater management system plan.

(F) Permit Application Procedure

1. Applications for permits shall be filed with the City of Emporia on a permit application on a form provided by the City of Emporia.
2. Permit applications shall include the items set forth in Section 10-83.A. Two copies of the stormwater management design plan shall be included with the permit application.
3. The City of Emporia shall inform the applicant whether the application and stormwater management design plan are approved or disapproved.
4. If the permit application, stormwater management design plan is denied approval, the City of Emporia shall notify the applicant of that fact in writing. The applicant may then revise any item not meeting the requirements of this ordinance and resubmit the application, in which even Section 10-92.C shall apply for re-submittal.
5. Upon a finding by the City of Emporia that the permit application and stormwater management design plan meet the requirements of this ordinance, the City of Emporia may issue a permit for the development project provided that all other legal requirements for the issuance of such permit have been met.
6. Notwithstanding the issuance of the permit, in undertaking the new development or redevelopment activity, the applicant or other responsible person shall be subject to the following requirements:
 - (a) The applicant shall comply with all applicable requirements of the approved stormwater management design plan and the provisions of this ordinance;
 - (b) The development project shall be conducted only within the area specified in the approved stormwater management design plan;
 - (c) The City of Emporia shall be allowed to conduct periodic inspections of the development project in accordance with Sections 10-104 and 10-107;
 - (d) No changes may be made to an approved stormwater management design plan without review and written approval by the City of Emporia; and,
 - (e) Upon completion of the development project, the applicant or other responsible person shall submit a letter certifying that the project has been completed in accordance with the approved stormwater management design plan.

(G) Application Review Fees

A non-refundable permit fee may be collected at the time the permit application is submitted to the City of Emporia. Any permit fees that are collected shall be used to support the administration and management of the plan review and approval process and the inspection of all development projects

subject to the requirements of this ordinance. The City of Emporia (shall/may) develop a fee schedule based on the area of land disturbed by the project and may amend the fee schedule from time to time.

(H) Compliance through Off-Site Stormwater Management Practices

All stormwater management design plans shall include on-site green infrastructure and stormwater management practices (as much as practical), unless arrangements are made with the City of Emporia to manage post-construction stormwater runoff in an off-site or regional stormwater management practices. The off-site or regional stormwater management practice must be located on property legally dedicated for that purpose, be designed and sized to meet the post-construction stormwater management criteria presented in Section 10-97 of this ordinance, provide a level of stormwater quality and quantity control that is equal to or greater than that which would be provided by on-site green infrastructure and stormwater management practices and the City's Stormwater Ordinance (95-32). In addition, appropriate stormwater management practices shall be installed, where necessary, to protect properties and drainage channels that are located between the development site and the location of the off-site or regional stormwater management practice.

To be eligible for compliance through the use of off-site stormwater management practices, the applicant must submit a stormwater management design plan to the City of Emporia that shows the adequacy of the off-site or regional stormwater management practice and demonstrates, to the satisfaction of the City of Emporia, that the off-site or regional stormwater management practice will not result in the following impacts:

- (A) Increased threat of flood damage or endangerment to public health or safety;
- (B) Deterioration of existing culverts, bridges, dams and other structures;
- (C) Accelerated streambank or streambed erosion or siltation;
- (D) Water quality impairment in violation of state water quality standards and /or violation of any other state or federal regulations.

Section 10-88 Post-Construction Stormwater Management and Site Planning and

(A) Design Criteria

The following post-construction stormwater management and site planning and design criteria shall be applied to all new development and redevelopment activities that are subject to the provisions of this ordinance. The criteria have been designed to protect valuable local natural resources from impacts the land development process can have on downstream water quality.

(B) Use of Green Infrastructure Practices

Green infrastructure practices shall be used to the maximum extent practical during the creation of a stormwater management concept plan (Section 10-89) for a proposed development project. Green infrastructure practices can be used to not only help protect local terrestrial and aquatic resources from

the direct impacts of the land development process, but also to help maintain pre-development site hydrology and reduce post-construction stormwater runoff rates, volumes and pollutant loads.

(C) Water Quality Protection

In order to protect local aquatic resources from water quality degradation, post-construction stormwater runoff can be treated before it is discharged from a development site through the use of any or any combination of the criteria defined in the Post Construction Storm Water Best Management Practices Manual. However, if any of the storm water runoff volume generated by the runoff reduction storm event, as defined in the latest edition of the Post-Construction Stormwater Best Management Practices, cannot be reduced on the development site, due to site characteristics or constraints, it can be intercepted and treated in one or more stormwater management practices that provide at least an 80 percent reduction in total suspended solids loads and that reduce nitrogen and bacteria loads to the maximum extent practical. When seeking to satisfy this criteria through the use of one or more stormwater management practices, applicants can:

1. Intercept and treat stormwater runoff in stormwater management practices that have been selected, designed, constructed and maintained in accordance with the information presented in the latest edition of the Post-Construction Stormwater Best Management Practices and any relevant local addenda; and,
2. Provide adequate documentation to the City of Emporia to show that total suspended solids, nitrogen and bacteria removal were considered during the selection of the stormwater management practices that will be used to intercept and treat stormwater runoff on the development site.

(D) Extreme Flood Protection

The (administrator) may modify or wave this criteria on development sites where both the on-site and downstream stormwater conveyance systems are designed to safely convey the peak discharge generated by the extreme flood protection storm event to a receiving stream, creek or other aquatic resource without causing additional downstream flooding or other environmental impacts, such as stream channel enlargement (which may cause degradation of habitat).

(E) Redevelopment Criteria

Development activities that are considered to be redevelopment activities shall meet at least one of the following criteria:

1. **Consistent with the City's Stormwater Ordinance (95-32):** Meet or exceed the storm water runoff criteria established in the City's Stormwater Ordinance 95-32.
2. **Provide Stormwater Management:** Manage the stormwater runoff from at least 20% of the site's existing impervious cover and any new impervious cover in accordance with the post-construction stormwater management criteria outlined in Section 10-91 through 10-100 of this ordinance. The green infrastructure and stormwater management practices used to comply with these criteria shall be selected, designed, constructed and maintained in accordance with the

information presented in the latest edition of the Post-Construction Stormwater Best Management Practices and any relevant local addenda.

3. **Provide Off-Site Stormwater Management:** Provide, through the use of off-site stormwater management practices, a level of stormwater quality and quantity control that is equal to or greater than that which would be provided by satisfying the post-construction stormwater management criteria outlined in Section 10-99 through 10-100 of this ordinance on the development site.
4. **Combination of Measures:** Any combination of (1) through (3) above that is acceptable to the City of Emporia.

(F) Green Infrastructure and Stormwater Management Practices

All green infrastructure and stormwater management practices shall be selected, designed, constructed and maintained in accordance with the information presented in the latest edition of the Post-Construction Stormwater Best Management Practices Manual and any relevant local addenda. Applicants are referred to the latest edition of the Post-Construction Stormwater Best Management Practices Manual, and any relevant local addenda, for guidance on selecting green infrastructure and stormwater management practices that can be used to satisfy the post-construction stormwater management criteria outlined in Section 10-99 through 10-100 of this ordinance.

For green infrastructure of stormwater management practices that are not included in the Post-Construction Stormwater Best Management Practices, or for which pollutant removal and runoff reduction rates have not been provided, the effectiveness of the green infrastructure of stormwater management practice should be documented through prior studies, literature reviews or other means, and receive approval from the City of Emporia before being included in a stormwater management system.

Section 10-89 Stormwater Conveyance Practices

Stormwater conveyance practices, which may include, but are not limited to, storm drain pipes, culverts, catch basins, drop inlets, junction boxes, headwalls, gutters, ditches, open channels, swales and energy dissipaters, shall be provided when necessary to convey post-construction stormwater runoff and protect private & public properties adjoining development sites and /or public rights-of-way. Stormwater conveyance practices that are used to convey post-construction stormwater runoff on development sites shall meet the following requirements:

- (A) Methods used to calculate stormwater runoff rates and volumes shall be in accordance with the information presented in the City's Stormwater Ordinance 95-32;
- (B) All culverts, pipe systems and open channel flow systems shall be sized in accordance with the information presented in the City's Stormwater Ordinance 95-32 and the US DOT FHWA Urban Drainage Design Manual Hydraulic Engineering Circular No. 22;
- (C) Planning and design of stormwater conveyance practices shall be completed in accordance with the information presented in the City's Stormwater Ordinance 95-32 and the US DOT FHWA Urban Drainage Design Manual Hydraulic Engineering Circular No. 22.

Section 10-90 Notice of Construction Commencement

The applicant must notify the City of Emporia prior to the commencement of construction on a development site and have an approved KDHE NPDES NOI permit.

Section 10-91 Inspections during Construction

Periodic inspection of the green infrastructure and stormwater management practices shown on the approved stormwater management design plan may be conducted by staff or representatives of the City of Emporia during construction. Construction inspections shall utilize the approved stormwater management design plan for establishing compliance with the provisions of this ordinance. All inspections shall be documented in written reports that contain the following information;

- (A) The date and location of the inspection;
- (B) The name of the inspector;
- (C) Whether construction is in compliance with the approved stormwater management design plan;
- (D) Violations of the approved stormwater management design plan; and,
- (E) Any other variations from the approved stormwater management plan.

If any violations are found, the applicant shall be notified in writing about the nature of the violation and the remedial measures that are required to bring the action or inaction into compliance with the approved stormwater management design plan, as described in Section 10-113 of this ordinance. In the event that the remedial measures described in such notice have not been completed by the date set forth in the notice, any one or more of the enforcement actions outlined in Section 10-114 of this ordinance may be taken against the applicant.

Section 10-92 Final Inspection

Subsequent to the final installation and stabilization of all green infrastructure and stormwater management practices shown on the approved stormwater management design plan, and before recommendation to Code Services for the issuance of a certificate of occupancy, the applicant is responsible for certifying (via letter to the City) that the project has been completed in accordance with the approved stormwater management design plan. Upon receipt of said letter from the applicant, a final inspection will be conducted by City staff or representatives of the City of Emporia to verify construction of the planned stormwater improvements.

Section 10-93 Ongoing Inspection and Maintenance of Stormwater Management Systems

(A) Maintenance Responsibility

The responsible party named in the recorded stormwater management system plan and the KDHE NPDES NOI permit (Section 10-92, shall maintain in good condition and promptly repair and restore all green infrastructure and stormwater best management practices, maintenance access routes and appurtenances, including, but not limited to surfaces, walls, drains, dams, structures, vegetation, erosion and sediment control practices and other protective devices.

The City of Emporia may accept the dedication of any existing or future green infrastructure or stormwater management practice for maintenance, provided that such facility/practice meets all of the requirements of this ordinance, is in proper working order at the time of dedication and includes adequate and perpetual access and sufficient area for inspection and regular maintenance, and the City determines City maintenance is in the City's best interest. Such adequate and perpetual access shall be accomplished by granting of an easement to the City of Emporia or through a fee simple dedication to the City of Emporia.

(B) Maintenance Inspections

Periodic inspection of the green infrastructure and stormwater management facility/practices shown on an approved stormwater management design plan, shall be conducted by staff or representatives of the City of Emporia to document repair and maintenance needs and ensure compliance with the requirements of the approved inspection and maintenance agreement and plan and provisions of this ordinance. All inspections should be documented in written reports that contain the following information:

1. The Date and location of the inspection;
2. The name of the inspector;
3. The condition of:
 - (a) Vegetation and filter media;
 - (b) Fences and other safety devices;
 - (c) Spillways, valves and other hydraulic control structures;
 - (d) Embankments, slopes and safety benches;
 - (e) Reservoirs and permanent pools;
 - (f) Inlet and outlet channels and structures;
 - (g) Underground drainage structures;

- (h) Sediment and debris accumulation in storage and forebay areas;
- (i) Any other item that could affect the proper function of the stormwater management system; and,

4. A description of repair, restoration and maintenance needs.

If any repair, restoration or maintenance needs are found, the responsible party named in the recorded stormwater management system plan and/or the property owner of record according to the Lyon County Register of Deeds shall be notified in writing about the repair and maintenance needs and the remedial measures that are required to bring the stormwater management system into compliance with the approved stormwater management system plan, as described in Section 10-113 of this ordinance. In the event that the remedial measures described in such notice have not been completed by the date set forth in the notice, any one or more of the enforcement actions outlined in Section 10-113 of this ordinance may be taken against the responsible party named in the approved stormwater management system inspection and maintenance agreement and plan.

Section 10-93 Records of Maintenance Activities

The responsible party shall make and maintain records of all inspections, maintenance and repairs, and shall retain the records for a minimum of five years. These records shall be made available to the City of Emporia during inspections (if requested) and at other reasonable times upon request of the City of Emporia.

Section 10-94 Failure to Maintain

If the responsible party fails or refuses to maintain an approved stormwater management system and plan and/or the requirements of this ordinance, the City of Emporia, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or safety, 48 hours notice shall be sufficient), may correct a violation by performing the work necessary to place the green infrastructure or stormwater management facility/practice in proper working condition. The City of Emporia may assess the responsible party for the cost of the repair work, which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes to the City of Emporia.

Section 10-95 Violations, Enforcement and Penalties

Any action or inaction that violates the provisions of this ordinance or the requirements of an approved stormwater management design plan or permit, may be subject to the enforcement actions outlined in this section. Any such action or inaction that is continuous with respect to time may be deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

Section 10-96 Notice of Violation

If the City of Emporia determines that an owner, applicant or other responsible person has failed to comply with the provisions of this ordinance, or to construct and/or maintain their approved stormwater

management design plan and facility, it shall issue a written notice of violation to said owner, applicant or other responsible person. Where a person is engaged in a new development or redevelopment activity covered by this ordinance without having first secured a stormwater management permit, the notice of violation shall be served on the owner or the person in charge of the new development or redevelopment activity being conducted on the development site.

The notice of violation shall contain the following information:

- (A) The name and address of the owner, applicant or other responsible person;
- (B) The address or other description of the site upon which the violation is occurring;
- (C) A statement specifying the nature of the violation;
- (D) A description of the remedial measures necessary to bring the action or inaction into compliance with the provisions of the ordinance, or the terms and conditions of the approved stormwater management design plan, permit or inspection and maintenance agreement and plan, and the date for the completion of such remedial measures;
- (E) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation issued; and,
- (F) A statement that the determination of violation may be appealed to the City of Emporia by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or safety, a written notice of appeal must be filed within 24 hours after the notice of violation).

Section 10-97 Penalties

In the event that the remedial measures described in the notice of violation have not been completed by the date set forth the completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was issued.

Before taking any of the following actions or imposing any of the following penalties, the City of Emporia shall first notify the owner, applicant or other responsible person in writing of its intended action and shall provide a reasonable opportunity of not less than ten days (except, that in the even the violation constitutes an immediate danger to public health or safety, 48 hours notice shall be sufficient) to correct the violation. In the event the owner, applicant or other responsible person fails to correct the violation by the date set forth in said notice, the City of Emporia may take any one or more of the following actions or impose any one or more of the following penalties.

- (A) **Stop Work Order:** The City of Emporia may issue a stop work order that shall be served on the owner, applicant or other responsible person. The stop work order shall remain in effect until the owner, applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise corrected the violation or violations described therein. The stop work order may temporarily be withdrawn or modified by the City of Emporia to enable the

applicant or other responsible person to take the remedial measures necessary to correct such violation or violations.

- (B) **Withhold Certificate of Occupancy:** The City of Emporia may refuse to issue a certificate of occupancy for the building or other structure constructed or being construed on the development site until the owner, applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise corrected the violation or violations described therein.
- (C) **Suspension, Revocation, or Modification or Permit:** The City of Emporia may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the owner, applicant or other responsible person has taken the remedial measures set for the in the notice of violation or ha otherwise corrected the violation or violations described therein. The permit may be modified by the City of Emporia to enable the owner, applicant or other responsible person to take the remedial measures necessary to correct such violation or violations.
- (D) **Civil Penalties:** In the event the owner, applicant or other responsible person fails to take the remedial measures et for the in the notice of violation or otherwise fails to correct the violation or violations described therein, by the date set forth in the notice of violations, the City of Emporia may impose a penalty not to exceed \$100 (depending on the severity of the violation) for each day the violation remedied after the date set forth in the notice of violation.
- (E) **Criminal Penalties:** For intentional and flagrant violations of this ordinance, the City of Emporia may issue a citation to the owner, applicant or other responsible person, requiring said person to appear in (City municipal court) court to answer to criminal charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000, imprisonment for up to 60 days or both. Each act of violation and each day upon which any violation shall constitute a separate offense.

The provisions of this ordinance shall become effective upon its publication in the official City newspaper.

The provision of this ordinance shall be included and incorporated in the Code of Ordinance of the City of Emporia, KS, 1983, as an amendment and addition thereto and shall be appropriately renumbered to conform to the uniform number system of the Code.

PASSED AND APPROVED this _____ day of _____, 2022.

(Seal)

Becky Smith, Mayor

Kerry Sull, City Clerk

Memo

TO: City Commission

FROM: Dean Grant, Director of Public Works

CC: Department Heads

DATE: January 19, 2022

SUBJECT: Sewer Use Ordinance and Industrial Pretreatment Program

The United States Environmental Protection Agency (EPA), through Kansas Department of Health and Environment (KDHE) requires that cities have a Pretreatment Program. The Pretreatment Program is used to regulate the amount of contaminants and pollutants in industrial wastewater. The city is required to identify the category of each industry, and enforce the necessary regulations based on that industry's contaminants and pollutants. The EPA and KDHE require that the discharge of industrial wastewater be tested at specified intervals throughout the year, and that the city notify the industries when they are in violation of the regulations. The city is required to have an enforcement plan to follow when industries are not in compliance with the regulations.

The City of Emporia currently has 6 Non-categorical industries and 4 Categorical industries. The non-categorical industries have the Fats, Oils, and Grease in their discharged waste monitored once a month, as well as the strength of the wastewater (Biochemical Oxygen Demand and Total Suspended Solids). The Categorical industries are monitored for one or more specific contaminant and/or pollutant, based on their process. Also, temperature and pH is monitored at each industry due to the effect that those parameters have on the collection system.

The EPA and KDHE are requiring that the City of Emporia revise and adopt their Enforcement Response Plan and Sewer Use Ordinance. KDHE has reviewed both the ERP and the Sewer Use Ordinance, and made their recommended changes. The next step will be review and approval by the EPA. Upon approval from the EPA, staff will ask the commission to adopt the updated Sewer Use Ordinance and Enforcement Response Plan.

Attachments: Sewer Use Ordinance (updated with KDHE revisions)
Enforcement Response Plan Preamble
Updated Enforcement Response Plan (approved by KDHE)

ENFORCEMENT RESPONSE PLAN

City of Emporia, Kansas Industrial Pretreatment Program

Definitions:

1. Administrative Order (AO) - An order for compliance, issued by the Superintendent. May contain compliance schedules and/or fines for additional days of noncompliance. Types of AOs include consent orders, compliance orders, and cease and desist orders.
2. Civil Action - Litigation to seek equitable relief, monetary penalties and actual damages through a court of law.
3. Consent Order (CO) - Consent order for compliance. Legally enforceable agreement between the City and the industrial violator designed to restore compliance.
4. Criminal Prosecution-Pursuit of punitive measures through a court of law.
5. Notice of Violation (NOV) - Notice to the industry specifying the violation and indicating required response actions by the industry within a specified time frame.
6. Show Cause Order - An order requiring an industrial user to appear at a hearing and show cause why a proposed enforcement action should not be taken.
7. Termination of Service - Refusal of the City to provide water and/or sewer service to an industry.

Abbreviations:

1. CA - City Attorney
2. CC - City Council
3. SU - Superintendent
4. PA - Pretreatment Administrator
5. POTW - Publicly Owned Treatment Works
6. SCP - Spill Control Plan
7. SIU – Significant Industrial User

I. Purpose

In order to fulfill the requirements established by 40 CFR 403.8(f)(5), the City of Emporia has developed an Enforcement Response Plan, hereafter referred to as the City's Enforcement Response Plan and/or the Plan. The Plan reflects the City's primary responsibility to enforce all applicable pretreatment requirements and standards pursuant to 40 CFR Part 403.8(f)(1)and(2). The Plan also describes procedures for reviewing industrial user inventories and investigating instances of noncompliance.

An Enforcement Response Guide (attached) has been developed in conjunction with the Plan which describes the types of escalating enforcement responses the City will take, in response to all anticipated types of industrial user violations, defines the time periods within which responses will take place, and identifies the official(s) responsible for implementing each type of enforcement response.

II. Procedures for Reviewing Industrial User Inventories

Section 1. Currently Permitted SIUs

The staff person directly responsible for administering the City's Industrial Pretreatment Program (hereafter referred to as the pretreatment administrator) shall be responsible for reviewing the existing inventory of permitted industries that have been determined to be Significant Industrial Users (SIUs). The status of these industries shall be reviewed at least annually using the following procedures:

a. Annual inspection. An annual inspection shall be conducted by the pretreatment administrator or his/her delegated representative to determine whether any unreported changes in processes or operations have occurred which changes would alter the industry's categorical or pretreatment classification. The annual inspection may be scheduled with the industry at least 24 hours in advance so that key industry personnel will be present during the inspection. The annual inspection for each permitted industry shall include but not be limited to examination of process operations, pretreatment systems, storage areas for hazardous and nonhazardous materials and chemicals and data and records. A sample of process wastewater will be taken at the time of the inspection if the required annual sample has not been previously collected by City personnel. A sample may be collected regardless if the pretreatment administrator or his/her representative deems it appropriate. Any samples collected during the annual inspection shall be collected at the regular designated sample site using approved sampling and preservation techniques.

b. Review of compliance monitoring reports. The results of any self-monitoring analyses and/or compliance sampling done by the City will be reviewed for any changes in characteristics which might be indicative of changes in operations or processes. Flow rates and production rates will be reviewed for changes. Such review will be done within 5 working days of receiving compliance reports and/or laboratory analysis reports.

c. Permit renewal applications. Currently permitted industries shall apply for renewal of wastewater discharge permits at least 30 days prior to the expiration date of the permit. The pretreatment administrator shall review each application within 7 days of receipt, if possible, for information which would indicate a possible change in the SIU's status.

Section 2. Additions to the User Inventory

Additional industrial user information shall be obtained as follows:

- a. Periodic industrial user surveys. Industrial Questionnaires may be sent on a periodic basis to industries that were surveyed in the past and determined to not be SIUs. This shall be done at least once every five years and the completed questionnaires shall be reviewed by the pretreatment administrator for information indicating any possible change in an industry's status. The review will be followed by an on-site evaluation if deemed appropriate.

Any industry identified as a possible SIU but not previously surveyed shall immediately be sent an Industrial Questionnaire. The information submitted in response to such questionnaire shall be reviewed and, if deemed beneficial, an on-site inspection shall be carried out by the pretreatment administrator. A determination as to whether the new industry is a SIU shall be made within 30 days by the pretreatment administrator, and the industry notified of such determination.

Periodic review of telephone directories, manufacturer's listings and indices. The pretreatment administrator shall review such sources as new directories are published and at least once every 5 years. More frequent use of these sources may be done as follow-up to other sources of information.

Notification by other City offices or agencies. The City utility billing and inspection offices shall notify the pretreatment administrator or other POTW personnel immediately of new commercial or industrial applications or accounts.

Inspections of commercial and industrial areas. POTW personnel and other City employees shall inform the pretreatment administrator of any new tenants or operations noticed in such areas.

III. Investigation of Noncompliance

Section 1. Compliance Monitoring and Data Collection

Data and information for determining compliance of permitted SIUs will be collected and screened as follows:

a. All permitted industries whether categorical or noncategorical shall submit to the pretreatment administrator Monitoring Reports indicating the nature and concentration of pollutants in the effluent which are limited by pretreatment standards and/or permit conditions. These reports shall be submitted at specified intervals pursuant to permit requirements and/or federal regulations but in no case less than twice yearly.

b. Compliance data to be included in these reports may be collected by the City in lieu of self-monitoring by the SIUs. In any case the City will collect at least one compliance monitoring sample from each permitted industry per year pursuant to 40 CFR 403. Sampling frequency for noncategorical parameters shall be determined based on the type, amount, and frequency of the industrial user's discharge; required monitoring frequencies shall be specified in the industrial user's discharge permit. Sampling for parameters regulated by a categorical pretreatment standard shall be conducted a minimum of three times per year for those users who are in compliance with applicable standards. In cases of Significant Noncompliance (SNC) or where compliance status is in question, monitoring frequency will be increased appropriately. Analyses will be performed in-house by City laboratory personnel where certification allows or by a Kansas certified commercial laboratory. Laboratory reports will be sent directly to the pretreatment administrator. Copies will then be sent to Sills for inclusion in monitoring reports. This method will ensure that the pretreatment administrator sees all data immediately as it becomes available; any violations of numerical pretreatment standards or conditions will be detected before the monitoring report is due.

c. If a SIU monitors any pollutant more frequently than required using approved analytical methods and sampling procedures, the results of such monitoring shall be included in the compliance monitoring reports. If such sampling by the SIU indicates a violation, the industry must notify the City within 24 hours of becoming aware of the violation. This reporting condition shall be incorporated into the discharge permit of all permitted industries.

d. Additional observations for determination of compliance with non-numerical permit requirements shall be made by the pretreatment administrator or his/her delegated representative during the annual inspection of each industry. In cases of citizen complaints of noncompliance or violations by an industrial user, unscheduled inspections and sampling will be carried out and the Kansas Department of Health and Environment will be notified. Results of any such unscheduled inspections and sampling will be documented in the SIUs file.

Section 2. Procedures for Screening Data

All compliance data will be systematically evaluated to identify violations using the following procedures:

a. Data screening. All numerical data shall be screened for violations by the pretreatment administrator no later than five working days following receipt of the information. The data shall be compared to any categorical or local discharge limits which may apply.

b. Reporting requirements. The pretreatment administrator shall log each report as it is received and compare the date of receipt with the due date. This tracking shall be used for determination of compliance with submittal dates for monitoring reports, compliance schedule reports, and any other required reports.

c. If a violation is detected during the above screening a record of such violation shall be incorporated into the user's file. It shall be the responsibility of the pretreatment administrator to identify all violations and keep a record of responses, even if a decision is made to take "no action."

d. The Superintendent shall be copied on NOV's and correspondence regarding any identified violations of regulations, pretreatment standards, or conditions and of the recommended response(s). This notification may consist of copies of any and all pertinent correspondence, orders, notices, etc...

IV. Enforcement Response Actions

Section 1. General.

Enforcement will begin with the issuance of Industrial Wastewater Discharge Permits. Permits, whether for new or existing SIUs, shall be issued for a period of one to five year(s). The application form, both for new permits and renewals, shall advise the prospective permittee that it must, prior to receipt or renewal of a permit, agree to accept and comply with all provisions and conditions of City's Ordinance and of all other pertinent Ordinances or regulations that may be promulgated in the future.

This would include all of the substantive and procedural provisions contained in the Enforcement Response Plan (such regulations and response plan collectively referred to herein as the "Regulations"). The language and form of the application will be appropriate for this purpose. The permit itself shall also contain text explaining that any discharge under its authority will itself be deemed to be consent to any administrative processes established by the City to enforce the regulations.

Permitted SIUs will be regularly reminded, through periodic notifications or otherwise, that discharge pursuant to a permit is premised on consent to the City's authority to enforce the regulations.

These notification procedures will eliminate misunderstandings about the relationship between the City and the permitted industrial community and clarify the authority of the City to protect the integrity of the POTW and the quality of the environment.

Section 2. Selection of Enforcement Response.

When, following screening of compliance data and investigation of noncompliance as outlined in Part II, Sections 1 and 2 of this Plan, an industry is found to be in noncompliance with Federal, State, or local regulations, pretreatment standards, or conditions, an enforcement response will be necessary to ensure that corrective action is taken. The City will consider the following criteria when determining the type and severity of an enforcement response, based on the options outlined in the Enforcement Response Guide, to be taken:

Magnitude of the violation. When determining the magnitude of a violation, the City will use the EPA definition of Significant Noncompliance (SNC) as referenced in 40 CFR Part 403 (55 Federal Register 30082). An industrial user is in SNC if a violation meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a six (6) month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter;
2. Technical Review Criteria (TRC) violations, defined as those in which 33% or more of all the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = **1.4** for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH);
3. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) which the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
4. Any discharge of a pollutant which has caused imminent endangerment to

human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;

Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, progress reports on compliance schedules, and periodic self-monitoring reports;

Failure to accurately report instances of known noncompliance;

Any other violation or group of violations which the City determines will adversely affect the operation or implementation of the local pretreatment program.

Duration of the violation. Violations which continue over a prolonged period of time and/or are not corrected following initial notice shall subject the industrial user to escalated enforcement actions.

Harm caused to the POTW. If a violation by an industry causes the POTW to violate its NPDES permit, affects sludge handling, or causes worker health and safety problems, the industry will be in SNC, and subject to more stringent enforcement actions. The same will apply to industrial violations which cause interference with the collections system or treatment plant operations.

Compliance history. A historical pattern of recurring violations by an industrial user will necessitate more stringent enforcement actions by the City to ensure that the industry achieves consistent compliance.

Good faith. The City will evaluate the good faith of the user based on willingness to comply and follow-up corrective actions taken by the user. Exhibition of good faith does not eliminate the necessity of an enforcement action. It may, however, be considered by the City when selecting an appropriate response.

Section 3. Types of Enforcement Actions

a. Informal enforcement actions. Informal enforcement actions include verbal warnings, letters of warning, phone calls, e-mails and meetings.

b. Formal enforcement actions. Formal enforcement actions include but may not be limited to permit revocation, termination of water or sewer service, sending of Notice of Violations (NOV), issuance of an Administrative Order (AO), consent decree, or a compliance schedule in a permit. A formal enforcement action, such as an AO, may or may not contain an administrative fine.

Discharge Limit Violations

| <u>Type of Non-Compliance</u> | <u>Nature of Violation</u> | <u>Enforcement Response</u> | <u>Personnel</u> |
|---|--|--|----------------------------------|
| I. Exceedance of local or Federal permit limits | Isolated, not in SNC* | Notify by phone call (document call) or e-mail or write NOV letter | PA |
| | IU in SNC* during first Report period – no harm To the POTW | Write NOV letter requesting written corrective action from IU, including a Compliance Schedule | PA, Director |
| | IU in SNC* during first Report period – harm To the POTW | Write NOV letter requesting written corrective action from IU and issue an AO containing a compliance schedule | PA, Director PA, Director, CM |
| | IU in SNC* for two consecutive report periods for the same violation | Write a NOV letter and issue an AO with a compliance schedule | PA, Director, CM |
| | IU in SNC* for more than Two consecutive report Periods for the same Violation | Write a NOV letter and issue an AO with a compliance schedule. If the schedule is not met, issue a fine | PA, Director, CM |

*Refer to EPA's Significant Non-Compliance (SNC) definition

Reporting Violations

| <u>Type of Non-Compliance</u> | <u>Nature of Violation</u> | <u>Enforcement Response</u> | <u>Personnel</u> |
|-------------------------------|--|--|----------------------------------|
| I. Reporting Violations | Monitoring report is not complete or is late (less than 30 days) | Notify by phone (document call) or e-mail or write NOV letter | PA |
| | IU in SNC** during first Report period – no harm To the POTW | Write NOV letter requesting written corrective action from IU. | PA, Director |
| | IU in SNC** during first Report period – harm To the POTW | Write NOV letter requesting written corrective action from IU and issue an AO with a compliance schedule | PA, Director PA, Director, CM |
| | IU in SNC** for two consecutive report periods for the same violation | Write a NOV letter and issue an AO with a compliance schedule | PA, Director, CM |
| | IU is in SNC** for more Than two consecutive Report periods for the Same violation | Write a NOV letter and issue an AO with a compliance schedule. If the schedule is not met, issue a fine | PA, Director, CM |

** Note: An IU is in "SNC – R" for reporting, if IU fails to sample in accordance with their permit or if IU fails to report a spill or if their monitoring report is not submitted at all or if their monitoring report is submitted more than 30 days late. All other reporting violations are considered "Infrequent – R".

DIVISION 1. GENERALLY

Sec. 28-66. Definitions:

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

Act: The federal water pollution control act, also known as the clean water act, as amended, 33 USC 1251 et seq.

Approval Authority: The EPA or, if the pretreatment program has been formally delegated to the Kansas department of health and environment (KDHE), it shall mean the director of the division of environment of KDHE (either director or state director).

Approved POTW Pretreatment Program Or Program Or POTW Pretreatment Program: A program administrated by a POTW that meets the criteria established by 40 CFR, part 403, and which has been approved by a regional administrator or state director.

Authorized or Duly Authorized Representative of the User:

If the user is a corporation: The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

BOD (Denoting Biochemical Oxygen Demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter.

Bond Fund: The bond fund for sewer system refunding revenue bonds, series of 1978, created by section II of the 1978 ordinance.

Bond Reserve Account: The reserve account for sewer system refunding revenue bonds, series of 1978, created by section II of the 1978 ordinance.

Bonds: The 1978 bonds and any bonds standing on a parity with the 1978 bonds.

Building Drain: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

Building Sewer: The extension from the building drain to the public sewer or other place of disposal, beginning five feet (5') (1.5 m) outside the inner face of the building wall.

Capital Charge: That portion of the total wastewater service charge which is levied for local capital costs, local investment in plant facilities and other local costs excluding operation, maintenance and replacement costs.

Categorical Pretreatment Standard: A national pretreatment standard specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories established as separate regulations under the appropriate subpart of 40 CFR, Chapter I, Subchapter N, Parts 401-471. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in 40 CFR, Part 403.

City shall mean the City of Emporia, Kansas.

City engineer shall mean the superintendent of public works of the city, or his authorized deputy, agent, or representative.

City manager shall mean the city manager or his deputy, agent, or representative.

Compatible wastes shall mean wastes containing pollutants for which the POTW treatment plant was designed to treat and which are identified in the national pollutant discharge elimination system (NPDES) permit issued by the United States Environmental Protection Agency to the POTW treatment plant of the city.

Composite sample shall mean a timed sequential collection of equal volume or flow weighted grab samples combined in a single reservoir to minimize the effect of the variability of the individual samples.

Control authority means the city engineer of the city.

Cooling water means the water discharged from any system of air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Depreciation and replacement account shall mean the sewer system depreciation and replacement account established by Section II of the 1978 Ordinance.

Dry industry shall mean an industrial user that discharges only nonprocess segregated domestic wastes from sanitary conveniences only and is not a significant user of the wastewater treatment works.

EPA shall mean the United States Environmental Protection Agency.

Federal securities means obligations of the United States constituting a part of the invested sinking fund account.

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Grab sample shall mean a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

ICR shall mean industrial cost recovery.

Incompatible wastes shall mean waste containing pollutants not included in the definition of compatible wastes.

Indirect discharge or discharge means the introduction of pollutants into a POTW from any nondomestic source regulated under Section 307 (b), (c), or (d) of the Act.

Industrial user or user means a source of indirect discharge.

Industrial waste shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Interference means a discharge which, alone or in conjunction with the discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes operations, or its sludge processes, use or disposal; and
- (2) Therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Invested sinking fund account means the account by that name established in the bond fund by Section II of the 1978 Ordinance.

National pretreatment standard, pretreatment standard or standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR, section 403.5. **Pretreatment Standards shall include prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.**

National pollutant discharge elimination system or NPDES permit or permit means a discharge permit issued to a POTW pursuant to Section 402 of the Act (33 U.S.C. 1342).

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

New source means:

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located;
- b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (1) (b) or (1) (c) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- a. Begun, or caused to begin as a part of a continuous onsite construction program:
 - 1. Any placement, assembly, or installation of facilities or equipment;
 - 2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Operation and maintenance account shall mean the account established by this ordinance to provide for the operation, maintenance and replacement needs of the wastewater treatment system. This account shall receive all user charge revenues.

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Planning and zoning coordinator shall mean the supervisor of the planning and zoning division of the city, or his authorized deputy, agent or representative.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR, Section 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or sludge floating that might interfere with or otherwise be incompatible with the POTW.

However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR, Section 403.6(e), and this article.

Pretreatment requirements shall mean any substantive or procedural requirements (present or future) related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Principal and interest account means the account by that name in the bond fund created by Section II of the 1978 Ordinance.

Properly shredded garbage shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a 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 (1.27 centimeters) in any dimension.

Publicly-owned treatment works or POTW means a treatment works as defined by Section 212 of the Act, which is owned by a state or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

POTW treatment plant means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

Public sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Regional administrator means the appropriate EPA regional administrator.

Revenues shall mean:

(i) All revenues, income, and rents accrued by the city from the ownership and operation of the sewer system and the proceeds of any insurance covering business interruption loss relating to the sewer system, and

(ii) All interest received on any movies or securities held pursuant to the 1978 Ordinance including investment income received after November 15, 1992, and available for transfer into the principal and interest account pursuant to Section 12(c) of the 1978 Ordinance, but excluding interest from the escrow account.

Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

Sanitary waste shall mean the wastes discharged from the average residential user in the service area.

Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwater as may be present.

Sewage treatment plant shall mean any arrangement of devices and structures used for treating sewage. (See also definition of POTW treatment plant.)

Sewage works shall mean all facilities for collecting, pumping, treating, and disposing of sewage. (See also definition of POTW.)

Sewer shall mean a pipe or conduit for carrying sewage.

Sewer fund shall mean the Sewer Fund established by Article IV of the 1978 Ordinance.

Significant noncompliance (SNC) means an industrial user violation which meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits defined as those in which sixty-six (66) percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(2) Technical review criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance.

(8) Any other violation or group of violations which the control authority determines will adversely affect the operation of implementation of the local pretreatment program.

Significant industrial user means:

(1) All industrial users subject to categorical pretreatment standards; and

(2) Any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more, of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewaters) to the POTW; contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that an industrial user meeting the criteria in paragraphs (1) and (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for

violating any pretreatment standard or requirement, the control authority may at any time, upon its own initiative or in response to a petition received from an industrial user or POTW, and with the consent of the approval authority, determine that such industrial user is not a significant industrial user.

~~*Slug discharge* means any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or noncustomary batch discharge.~~

Slug Discharge includes any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Storm drain (sometimes termed "storm sewer") shall mean a sewer which carried storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Storm water shall mean any surface water resulting from any form of natural precipitation which may or may not be mixed with an accumulation of dirt, soil and other debris or substances collected from the surfaces on which such precipitation falls or flows.

Suspended solids shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of Section 307(a)(1) of the Act.

User charge shall mean that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment and collection system. The term is also referred to as treatment charge or service charge.

Wastewater is synonymous with sewage and the two (2) terms may be interchanged without altering the meaning of either.

Wastewater collection and treatment system shall mean a system including sanitary sewers, sewer mains, pump stations, processing and treatment facilities, holding ponds, etc., all used for the gathering, transporting and treating of wastewater prior to its re-entry into rivers, streams, or other bodies of water.

Watercourse shall mean a channel in which a flow of water occurs, whether continuously or intermittently.

1978 Bonds means the sewer system refunding revenue bond, series of 1978, dated May 15, 1978, authorized by Ordinance Number 892.

(Code 1962, § 19-101; Ord. No. 963, § 1, 8-1-79; Ord. No. 84-30, § 1, 8-1-84; Ord. No. 91-11, § 1, 6-5-91)

Sec. 28-67. Unlawful deposits.

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

waste which is deemed to be a hazard to the health of the general public by the joint board of health.

(Code 1962, § 19-201; Ord. No. 963, § 1, 8-1-79)

Sec. 28-68. Unlawful discharges.

It shall be unlawful to discharge to any unnatural outlet within the City of Emporia, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with this article.

(Code 1962, § 19-202; Ord. No. 963, § 1, 8-1-79)

Sec. 28-69. Required connections.

The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city shall be required to make such connections with said sewer system of the city as may be necessary in the judgment of the joint board of health for the protection of the health of the public, for the purpose of disposing of all substances from any such building affecting the public health which may be lawfully and properly disposed of by means of such sewer, and shall install at his expense adequate indoor toilet facilities with adequate piping and fixtures for said facilities and to connect such facilities directly with the proper public sewer in accordance with this article. If any person fails, neglects, or refuses to install such, or to so connect any building or buildings with the sewer system of the city herein provided for, for more than ten (10) days after being notified in writing by the joint board of health to do so, the city may cause such premises and buildings to be connected with said sewer system and is hereby authorized to advertise for bids for the construction and making of such sewer connection and to contract therefor with the lowest responsible bidder and cause such premises to be connected with said sewer system and to assess the costs and expense thereof against the property and premises so connected, such assessment to be made in the same manner as other special assessments are made.

(Code 1962, § 19-204; Ord. No. 963, § 1, 8-1-79)

State law reference—Authority of city to so provide, K.S.A. 12-631.

Sec. 28-70. Sewer connections outside city.

(a) The owner or owners of any premises situated outside the city limits may be granted permission by contract, in the discretion of the governing body, to connect such premises to the city's sewage disposal system and discharge usual and ordinary sewage from such premises as hereinafter provided. As the governing body and this article lack jurisdiction outside the territorial limits of the city, the governing body hereby requires that a contract, embodying the provisions of this article, be executed by the city and the applicant. This contract shall require that a payment be made to the city as a charge for treatment of the user's wastes. Wastewater charges for outside city users shall be proportional to the user charge for city residents. This does not preclude the city from charging additional fees designed to recover capital costs or other nontreatment charge costs.

(b) Any applicant desiring to make such sewer connection shall apply, in writing, to the city clerk for a permit to do so. Such application shall state:

- (1) The legal description of the premises;
- (2) The name of the owner or owners;

- (3) The number and kind of sewer intake openings to be connected;
- (4) The exact point of proposed connection;
- (5) Proposed contract between the applicant and the city.

(c) The city clerk, upon receiving such application, if he finds the application to be in proper form and that the sewer to which applicant desires to connect is not overloaded and that sewage from such premises can be disposed of without an expense to the city in excess of the service charges reasonable anticipated to be received from such premises that such sewer connection will be made without expense to the city, may, after review and approval of the governing body issue the applicant a permit to make such connections to the sewage disposal system as are shown in the application or as the governing body may direct.

(Code 1962, § 19-205; Ord. No. 963, § 1, 8-1-79)

Sec. 28-71. Inspections.

(a) The city engineer and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all properties and install necessary devices for the purposes of inspection, observation, records examination and copying, measurement, sampling and testing in accordance with the provisions of this article. Examination of records will be in accordance with section 28-131 of this chapter.

(b) While performing the necessary work on private properties referred to in subsection (a), the city engineer or duly authorized employees of the city shall observe all safety rules applicable to the premises as established by the company and the company shall be held harmless for injury or death to the employees of the city and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage assessed against the company and growing out of the gauging and sampling operation except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 28-126 of this chapter.

(Code 1962, § 19-314; Ord. No. 963, § 1, 8-1-79; Ord. No. 84-30, § 2, 8-1-84; Ord. No. 91-11, § 2, 6-5-91)

Sec. 28-72. Violations and enforcement.

(a) Any person found to be in violation of any provision of this article shall be served by the city with a written notice from the city engineer stating the nature of the violation and shall become liable to the city for any expense, loss, or damage occasioned by such violation.

(b) Within thirty (30) days after the date of the notice, unless a shorter time is necessary due to the nature of the violation, a plan for the satisfactory correction thereof shall be submitted by the user to the city engineer. If the violation is not corrected by timely compliance, or a satisfactory correction plan is not submitted within a reasonable time, the city may, through its control authority, suspend the wastewater treatment service and/or a wastewater or industrial wastewater discharge permit in order to stop an actual or threatened discharge which presents or may present, in the opinion of the city engineer, an imminent or substantial endangerment to the health and welfare of persons, to the environment, causes interference to the POTW, pass-through or causes the city to violate any conditions of its NPDES permit. Provided, that if the violation entails a discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons the control authority shall take such action upon notice to the user as deemed necessary to immediately halt or prevent such discharge to the POTW.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of a person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewage connection, to prevent or minimize damage to the POTW or endangerment to any individuals.

(c) The city may order the user to show cause before the city engineer why enforcement action should not be taken. A written notice shall be provided to the user specifying the time and place of a meeting, the reason why the action is proposed, and the proposed enforcement action. Based upon the evidence presented at the meeting, the city engineer shall determine the appropriate enforcement action, if any, which should be taken. The city engineer's determination may be appealed to the city commission within ten (10) days after the city engineer's ruling. The commission shall fix a reasonable time for hearing the appeal and give written notice to the parties, stating the time and place for the hearing. The commission shall decide the appeal within a reasonable time and shall notify the parties of its decision.

(d) The city shall annually publish in the official city newspaper a list of the users which are in significant noncompliance. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months.

(e) The remedies and enforcement provisions set forth above shall be deemed independent and not exclusive of the other, and in addition to any other remedies, the city may institute injunction, mandamus, or other appropriate actions or proceedings with respect to any violation of any provision of this article; and further and in addition thereto, all industrial users shall be subject to assessment of a civil penalty of up to one thousand dollars (\$1,000.00) per day, each and every day constituting a separate violation; for each violation of pretreatment standards and requirements set forth in this article, the city is authorized to seek enforcement of such penalty in any court of competent jurisdiction.

(f) In addition to any civil actions, remedies or enforcement provisions set forth above the POTW may access and seek criminal penalties for each violation by an industrial user of pretreatment standards and requirements of this article, such violation being deemed a Class A misdemeanor.

(g) Enforcement actions after violations of the Industrial Pretreatment Program. The city enforcement response policy for noncompliance applies to permit violations, monitoring and reporting violations after sampling or during site visits and includes but is not limited to:

Unpermitted discharge, exceedance of permit limits or local limits, permit violations, reporting violations, monitoring violations, improper sampling, failure to install monitoring equipment, or violation of compliance schedules.

The enforcement actions to the above violations may include but is not limited to:

Notice of violation requiring explanation and corrective action plan, compliance schedule, fine, civil action, criminal investigation, suspension or revocation of permit, termination of service, and publication of name of Industrial User and enforcement action taken.

Enforcement action will be taken by the Pretreatment Coordinator with assistance from the City Manager and/ or City Engineer as needed.

(Code 1962, § 19-501; Ord. No. 963, § 1, 8-1-79; Ord. No. 84-30, § 3, 8-1-84; Ord. No. 91-11, § 3, 6-5-91)

Cross reference—Penalty for Class C misdemeanor, § 1-6.

Secs. 28-73–28-80. Reserved

DIVISION 2. PRIVATE SEWAGE DISPOSAL SYSTEMS

Sec. 28-81. Generally.

Except as otherwise provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or any other facility intended or used for the disposal of sewage.

(Code 1962, § 19-203; Ord. No. 963, § 1, 8-1-79)

Sec. 28-82. When required.

Where a public sanitary or combined sewer is not available under the provisions of 28-70, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

Code 1962, § 19-206; Ord. No. 963, § 1, 8-1-79)

Sec. 28-83. Permit.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the city. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the city. A permit and inspection fee of twelve dollars and fifty cents (\$12.50) shall be paid to the city at the time the application is filed.

(Code 1962, § 19-206(A); Ord. No. 963, § 1, 8-1-79)

Sec. 28-84. Inspections.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city. The city shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the city when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seventy two (72) hours of the receipt of notice by the city.

(Code 1962, § 19-206(B); Ord. No. 963, § 1, 8-1-79)

Sec. 28-85. Standards:

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than sixty five thousand (65,000) square feet or six thousand six hundred four (6,604) square meters. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (1962 Code, § 19-206(C); Ord. 963, § 1, 8-1-79)

Sec. 28-86. Operation And Maintenance:

An owner shall operate and maintain private sewage disposal facilities in a sanitary manner at all times, at no expense to the City. (1962 Code, § 19-206(E); Ord. 963, § 1, 8-1-79)

Sec. 28-87. Abandonment And Connection To Public Sewer:

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this Article, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. When a public sewer becomes available the building sewer shall be connected to said sewer within sixty (60) days and the private sewage

disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt. (1962 Code, § 19-206(D), (G); Ord. 963, § 1, 8-1-79)

Sec. 28-88. Additional Requirements:

No statement contained in this Division shall be construed to interfere with any additional requirements that may be imposed by the joint Board of Health. (1962 Code, § 19-206(F); Ord. 963, § 1, 8-1-79)

Secs. 28-89–28-100. (Reserved)

DIVISION 3. BUILDING SEWERS AND CONNECTIONS

Sec. 28-101. Permit:

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

(b) There shall be two (2) classes of building sewer permits:

- (1) For residential and commercial service; and
- (2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City. A permit and inspection fee of four dollars (\$4.00) for a residential or commercial building sewer permit and four dollars (\$4.00) for an industrial building sewer permit shall be paid to the City at the time the application is filed. (1962 Code, § 19-207(A); Ord. 963, § 1, 8-1-79)

Sec. 28-102. Costs And Liabilities:

All costs and expense incident to the installation and connection of a building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (1962 Code, § 19-207(B); Ord. 963, § 1, 8-1-79)

Sec. 28-103. Separate Building Sewer Required:

A separate and independent building sewer shall be provided for every building which maintains internal water service.

EXCEPTION: A building sewer serving one property may be connected to a building sewer serving an adjoining property only when:

- (1) The public sanitary sewer is not readily available to the new use, being greater than three hundred feet (300') from the proposed use.
- (2) Cross-easement agreements, acceptable to the City, for the new sanitary building sewer line shall be executed by the owners of the two (2) properties and shall be recorded with the Register of Deeds.
- (3) An engineer licensed with the State shall certify that the existing sewer line is of sufficient size to handle the new sanitary sewer flow according to the Plumbing Code in effect at the time. (A licensed plumber may certify in the case of two (2) single-family dwellings.)

(4) Where interceptors and/or pretreatment facilities are required they shall be on the property requiring such facilities. (1962 Code, § 19-207(C); Ord. 963, § 1, 8-1-79; Ord. 95-31, § 1, 9-6-95)

Sec. 28-104. Use Of Old Building Sewers:

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Engineer, to meet all requirements of this Chapter. (1962 Code, § 19-207(D); Ord. 963, § 1, 8-1-79)

Sec. 28-105. Size, Slope, Materials, Etc.:

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code 1 or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF, "Manual Of Practice Number 9", shall apply. (1962 Code, § 19-207(E); Ord. 963, § 1, 8-1-1979)

Notes

1. See app. E of this code.

Sec. 28-106. Elevation And Lifts:

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. (1962 Code, § 19-207(F); Ord. 963, § 1, 8-1-1979)

Sec. 28-107. Connection Of Downspouts, Etc.:

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources, of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (1962 Code, § 19-207(G); Ord. 963, § 1, 8-1-1979)

Sec. 28-108. Connection Into Public Sewer:

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF, "Manual Of Practice Number 9". All such connection shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the city before installation. (1962 Code, § 19-207(H); Ord. 963, § 1, 8-1-1979)

Sec. 28-109. Notification For Inspection And Supervision Of Connection:

The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the designated city representative. (1962 Code, § 19-207(I); Ord. 963, § 1, 8-1-1979)

Sec. 28-110. Safety Requirements:

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public street from hazard. Streets, sidewalks, parkways, and other

public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (1962 Code, § 19-207(J); Ord. 963, § 1, 8-1-1979)

Secs. 28-111–28-120. Reserved:

DIVISION 4. REGULATION OF DISCHARGES INTO SEWERS

Sec. 28-121. Stormwater, Ground Water, Unpolluted Industrial Process Water, Etc. 1 :

No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage (including interior and exterior foundation drains), uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the city engineer and Kansas department of health and environment. Industrial cooling water or unpolluted process waters may be discharged on approval of the city engineer and Kansas department of health and environment to a storm sewer or a natural outlet. (1962 Code, § 19-208(A); Ord. 963, § 1, 8-1-1979; Ord. 84-30, § 4, 8-1-1984)

Notes

1. See also article V of this chapter.

Sec. 28-122. Certain Harmful Wastes Prohibited; Review Of Certain Discharges:

Users are prohibited from discharging into a POTW any substance or pollutant(s) which may cause pass-through or interference.

In no case shall a substance discharged to the POTW or POTW treatment plant cause the sewage works to be in noncompliance with sludge use or disposal criteria or regulations under section 405 of the act; any criteria or regulations affecting sludge use or disposal developed pursuant to the solid waste disposal act, the clean air act, the toxic substances control act, any future federal acts affecting sludge disposal, or state criteria applicable to the sludge management method being used.

(a) Subject to the preceding, no person shall discharge or cause to be discharged any of the following described water or wastes into a POTW:

(1) Any gasoline, benzene, naphtha, fuel, oil or other flammable or explosive liquid, solid, or gas, or other such pollutant which creates a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees centigrade (60°C) using the test methods specified in 40 CFR, section 261.21.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quality, either singly or by interaction with other wastes, to injure or to cause interference with the POTW, constitute a hazard to humans or animals, to create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant. ~~including, but not limited to, cyanides in excess of one and two tenths milligrams per liter (1.2 mg/l) daily maximum, not to exceed sixty five hundredths milligrams per liter (0.65 mg/l) on a monthly average.~~

(3) Any waters or wastes having a pH lower than 5.0 or having any other corrosive property capable of causing damage or hazard to the POTW or personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in the POTW resulting in interference, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, 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) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in an amount that will cause interference or pass-through.

(6) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(7) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(8) Any waters or wastes having:

a. A five (5) day BOD greater than three hundred (300) parts per million by weight may result in the industrial user being assessed by a surcharge depending on frequency of exceeding expressed limits; or

b. Containing more than three hundred (300) parts per million by weight of suspended solids may result in the industrial user being assessed a surcharge depending on frequency of exceeding expressed limits; or

c. Containing more than one hundred fifty (150) parts per million by weight of fats, wax, grease, or oils, whether emulsified or not, may result in an industrial user being assessed a surcharge depending on the frequency of exceeding expressed limits; or

d. Having an average daily flow greater than five (5) percent of the sewer plant's design dry weather flow.

(b) Water or wastes controlled by subparagraph (a)(8) above shall be subject to the review of the city engineer. Where necessary, in the opinion of the city engineer, the owner shall provide, at his expense, such pretreatment as may be necessary to:

(1) Reduce the biochemical oxygen demand to three hundred (300) parts per million by weight; or

(2) The suspended solids to three hundred (300) parts per million by weight; or

(3) Decrease oil and grease to the acceptable limits of one hundred fifty (150) mg/l; or

(4) Control the quantities and rates of discharge of such wastes or waters.

Plans, specifications, and any other pertinent information relating to the proposed pretreatment facilities shall be submitted for the approval of the city engineer as required in section 28.125 of this chapter, and no construction of such facilities shall be commenced until said approval is obtained in writing.

(c) The POTW is hereby authorized to develop and enforce specific limits to implement the general and specific prohibitions in 40 CFR, sections 403.5(a)(1) and 403.5(b).

The City is hereby authorized to develop and enforce specific pollutant limits to implement general and specific prohibitions mentioned in 40 CFR Part 403.5(a)(1) and 403.5(b), if deemed necessary to comply with the objectives presented in Section 28-123 of this Ordinance and to

prevent pass through and interference. Technically based local limits mentioned below are specific discharge limits applicable to all Significant Industrial Users, using the City's POTW.

| Pollutant | MAHL Lbs./day | MAIL Lbs./day |
|---------------|------------------|------------------|
| BOD* | 10920 | 5308 |
| TSS* | 8904 | 2696 |
| NH3 | 730 | 365 |
| Arsenic, T | 0.450 | 0.420 |
| Cadmium, T | 0.343 | 0.241 |
| Cyanide | 2.098 | 1.916 |
| Chromium, T | 9.883 | 9.795 |
| Copper, T | 13.507 | 12.97 |
| Mercury, T | .0004 | 0.0 |
| Molybdenum, T | 0.405 | 0.385 |
| Nickel, T | 2.701 | 2.60 |
| Selenium, T | 0.540 | 0.520 |
| Silver, T | 6.274 | 6.227 |
| Lead, T | 3.720 | 3.619 |
| Zinc, T | 25.646 | 22.910 |

*BOD and TSS levels may be monitored by the City and extra strength surcharges may apply.

MAHL means Maximum Allowable Headworks Loading.

MAIL means Maximum Allowable Industrial Loading.

(Code 1962, § 19-208(B); Ord. No. 963, § 1, 8-1-79; Ord. No. 84-30, § 5, 8-1-84; Ord. No. 87-22, § 1, 8-5-87; Ord. No. 91-11, § 4, 6-5-91)

Sec. 28-123. Discharges city engineer may prohibit or regulate.

(a) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the city engineer that such wastes can harm the POTW, have an adverse effect on the receiving stream, result in interference or pass through, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the city engineer will give consideration to 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, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius) or any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference. Under no circumstances shall wastewater have a temperature, upon introduction to the POTW treatment plant, greater than one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius), unless the approval authority, upon request of the POTW, approves alternate temperature limit.

(2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred fifty (150) milligrams per liter (single) or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (zero and sixty-five (65) degrees Celsius).

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city engineer.

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, any 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 creates inhibition of the biological activity.

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the city engineer 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.

(7) Any radioactive wastes or isotopes of such half-life concentration as may exceed limits established by the city engineer in compliance with applicable state or federal regulations.

(8) Any waters or wastes having a pH in excess of 10.5.

(9) Materials which exert or cause:

a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or 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 released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW; or

d. Unusual volume flow or concentration of waste constituting "slugs," as defined herein.

(10) 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.

(11) Hauled Wastewater

A. Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. The Superintendent may require septic tank waste haulers to obtain individual wastewater discharge permits.

B. The Superintendent may require haulers of industrial waste to obtain individual wastewater discharge permits. The Superintendent also may prohibit the disposal of hauled

industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

C. Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable Standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(12) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(a) If any waters or wastes are discharged or are proposed to be discharged to the POTW which waters contain the substances or possess the characteristics enumerated in subsection (b) and which, in the judgment of the city engineer, may have a deleterious effect upon the POTW receiving waters, result in interference or pass through, or which otherwise create a hazard to life or constitute a public nuisance, the city engineer may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for introduction to the POTW;

(3) Require control over the quantities and rates of introduction; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

If the city engineer permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city engineer, as required in section 28-125 of this chapter, and subject to the requirements of all applicable codes, ordinances and laws.

(Code 1962, § 19-208(D), (E); Ord. No. 963, § 1, 8-1-79; Ord. No. 84-30, § 6, 8-1-84; Ord. No. 87-22, § 2, 8-5-87; Ord. No. 91-11, § 5, 6-5-91)

Sec. 28-124. Interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the city engineer, 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 city engineer, and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place shall be gastight and watertight.

(Code 1962, § 19-208(E); Ord. No. 963, § 1, 8-1-79)

Sec. 28-125. Pretreatment facilities.

Users shall provide necessary pretreatment as required to comply with this article and shall achieve compliance with all pretreatment standards and regulations and/or categorical pretreatment standards. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes. In no case shall an industrial user increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement.

Sec. 28-126. Control manhole.

When required by the city engineer, 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, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans and in a location approved by the city engineer. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Code 1962, § 19-208(G); Ord. No. 963, § 1, 8-1-79; Ord. No. 91-11, § 7, 6-5-91)

Sec. 28-127. Analysis standards.

All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this article shall be performed in accordance with 40 CFR, Part 136, require the use of a laboratory certified by KDHE for analysis of all self monitoring data or any compliance monitoring and shall be determined at the control manhole provided, or upon suitable samples taken at said 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 customarily 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 twenty-four-hours composite of all outfalls of the premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

Sample collection procedures are to be representative of the volume and nature of the discharge. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge. User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Superintendent. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be

composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

Permit sampling and Baseline monitoring will be arranged with the City Pretreatment Coordinator. Industries may choose to have the city sample the industrial wastewater to fulfill the permit conditions, however sampling will be done at the city personnel's convenience. If an industry chooses to complete the sampling with their own personnel and equipment, they may do so as long as sample collection follows protocol and the analysis is completed by a certified laboratory. All results must be reported to the pretreatment coordinator.

Sampling (completed either by the city or the industry) all permit requirements will be done in accordance with each industry's permit. Non-categorical industries will be sampled for each analyte on the permit at least once monthly. More samples may be collected as the city deems necessary. Parameters that are sampled for surcharge purposes (BOD and TSS) will be averaged if more than one sample per month is taken. Categorical industries will be sampled once per year as stated in each permit.

(Code 1962, § 19.208(H); Ord. No. 963, § 1, 8-1-79; Ord. No. 91-11, § 8, 6-5-91)

Sec. 28-128. Specific agreements.

No statement contained in this article shall be construed as preventing any special agreement of arrangement between the city and any industrial concern whereby an industrial waste of unusual strength of character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern, provided that no such agreement may act to waive national categorical pretreatment standards or other federal requirements.

(Code 1962, § 19-208(I); Ord. No. 963, § 1, 8-1-79; Ord. No. 91-11, § 9, 6-5-91)

Sec. 28-129. Accidental discharge prevention and reporting procedures.

Each user, subject to the requirements of this article, shall provide protection from accidental discharge of prohibited materials or other substances required by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own cost and expense. Detailed plans, if required by the city engineer, showing the facilities and operating procedures to provide this protection shall be submitted to the city for

review and shall be approved by the city before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user to immediately notify the city engineer of the incident. The notification shall include location of discharge, type of waste, concentration, volume and corrective actions.

(a) Within ten (10) working days following an accidental discharge, the user shall submit to the city engineer a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

(b) A notice shall be permanently posted on the user's bulletin board or any other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 84-30, § 8, 8-1-84; Ord. No. 91-11, § 10, 6-5-91)

Sec. 28-130. Industrial waste discharge permit.

Any industrial user subject to categorical pretreatment standards and/or pretreatment standards or requirements shall comply with section 28-122 and section 28-123 of the Code and all applicable federal pretreatment standards and amendments. In addition, the city engineer's office requires an industrial waste discharge permit for industrial users as follows:

- (a) *Permits.* All such industrial users proposing to connect to or discharge into a public sewer must obtain an industrial waste discharge permit before connecting to or discharging into a public sewer. All existing industrial users connected to or discharging into a public sewer must apply for an industrial waste discharge permit within thirty (30) days after the effective date of this section if one has not already been issued.
- (b) *Permit Contents.* An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits must contain:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to [the City] and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable Pretreatment Standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to

be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge

(6) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(7) Requirements to control Slug Discharge, if determined by the Superintendent to be necessary.

(8) Any grant of the monitoring waiver by the Superintendent must be included as a condition in the User's permit.

B. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the individual wastewater discharge permit not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit and

(8) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(c) *Permit application.* Users seeking an industrial waste discharge permit shall complete and file with the city an application in the form prescribed by the city engineer. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address and standard industrial classification number of applicant;
- (2) Volume of wastewater to be discharged;
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in section 28-122 and/or section 28-123 as determined by a certified laboratory approved by the State of Kansas;
- (4) Time and duration of discharge;
- (5) Average and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations; if any;
- (6) Description of activities, facilities and plant process on the premises including all materials, processes and types of materials which are or could be discharged;
- (7) **Permit application must be signed and certified by a duly authorized representative.**
- (8) Any other information as may be deemed by the city engineer to be necessary to evaluate the permit application.

The city engineer will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, an on-site inspection of the waste discharge system, other systems relating to the waste discharge system, treatment systems, and other related areas of the facility may be required. The city engineer may require a compliance schedule or graduated timetable for improvements or installation of equipment for obtaining better wastewater quality or achieving established standards. The standards, schedules or timetables may be stated specifically in the permit or a separate written agreement between the city and the user. Failure to meet the standards, schedules or timetables stated therein can result in immediate revocation of permit.

(d) Permit conditions. Industrial waste discharge permits shall be subject to all provisions of this article and all other regulations, user charges and fees established by the city. The conditions of the permits shall be uniformly enforced by the city engineer in accordance with this article, the City Code, and applicable state regulations and federal pretreatment standards or categorical pretreatment standards. In the event of conflict between local, state or federal regulations, the most stringent regulations shall be enforced by the city engineer.

(1) Duration of permits. Permits shall be issued or reissued for a specific time period not to exceed five (5) years **from the effective date of the permit**. The user shall pay a minimum of one permit fee prior to issue or reissue of a permit. The city engineer may set up a one-time pro rata billing on each user in order to establish a specific annual billing date for all permit holders. Unless the user chooses to pay more than a one-year permit fee at the time of issue or reissue, the user shall be billed annually. **Each individual wastewater discharge permit will indicate a specific date upon which it will expire.** The city shall notify the user at least thirty (30) days prior to expiration of the permit. The terms and conditions of the permit may be subject to modification and change by the city during the life of the permit as limitations or requirements are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(2) Transfer of permit. Industrial waste discharge permits are issued to a specific user for a specific operation. The permit shall not be reassigned, transferred, nor sold to a new

owner, new user, different premises or a new or changed operation without the approval of the city engineer.

(3) *Suspension of permit.* Any user who violates any of the following conditions, conditions of the permit or of this article or applicable state regulations and federal pretreatment standards or categorical pretreatment standards is subject to having his permit suspended:

- (a) Failure of the user to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- (c) Failure of the user to obtain prior approval of the city engineer before changing or modifying its discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (e) Violation of conditions of the permit.
- (f) **Falsifying self-monitoring reports and certification statements;**

If an industrial user's permit is suspended, that user will be considered to be in violation of this section. Violators will be subject to the enforcement process outlines in section 28-72.

(e) *Permit fee.* An industrial waste discharge permit fee will be collected annually from all permittees at the time of permit issuance or renewal. Fees shall be based on the city's costs of operating the city's pretreatment program. Costs may include issuance of permits, inspection of facilities, sampling and testing and operation of the city's wastewater laboratory and salaries of personnel. Users may also be assessed an additional fee to cover the costs of monitoring their waste stream for compliance with this article following a violation.

(f) No industrial user shall discharge into a POTW without first obtaining a permit as provided by this section. The city reserves the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

(Ord. No. 84-30, § 9, 8-1-84; Ord. No. 87-22, § 3, 8-5-87; Ord. No. 91-11, § 11, 6-5-91)

Sec. 28-131. Reporting requirements.

(a) *Generally.* After the effective date of a categorical pretreatment standard or after a final administrative decision made upon a category determination submission for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede any limitations imposed under this article. The city engineer shall notify all affected users of the applicable reporting requirements under 40 CFR Section 403.12. Such users are required to submit reports as required by said section including, without limitation:

- (1) Baseline monitoring reports (BMRs) (403.12(b));
- (2) Compliance schedule progress reports (403.12(c));

- (3) Reports on compliance with categorical deadline (403.12(d));
- (4) Periodic compliance report (403.12(e));
- (5) Notice of changed discharge (403.12(j)); and
- (6) Reports from noncategorical industrial users (403.12(h)).

(b) *Reports signed by a duly authorized representative.* **Permit applications**, BMRs, ninety-day compliance reports, and periodic reports on continued compliance must be signed by a duly authorized representative of the industrial user. For the purposes of this paragraph a duly authorized representative means:

(1) By a responsible corporate officer, if the industrial user submitting the reports required is a corporation. A responsible corporate officer means:

a. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

~~b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million (25,000,000) (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~

(2) By a general partner or proprietor if the industrial user submitting the reports required is a partnership or sole proprietorship respectively.

(3) By a duly authorized representative of the individual designated in (b)(1) or (b)(2) of this section if:

a. The authorization is made in writing by the individual described in paragraphs (b)(1) or (b)(2);

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

c. The written authorization is submitted to the control authority.

(4) If an authorization under paragraph (b)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (b)(3) of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

(5) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(c) *Certification.* All **permit applications**, BMRs, ninety-day compliance reports, and periodic reports on continued compliance shall contain and the person signing the report shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(d) *Reports of monitoring activities.*

(1) Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all sample:

- a. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- b. The date analyses were performed;
- c. Who performed the analyses;
- d. The analytical techniques/methods used; and
- e. The results of such analyses.

(2) Any industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of three (3) years, any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the director, the regional administrator, and the POTW. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the director or the regional administrator.

(3) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.

(e) *Notification of article violation.* Any industrial user must notify the POTW if sampling performed by the industrial user indicates a violation of this article, any categorical pretreatment standard and/or pretreatment standard or requirement, or any other requirement under federal, state or local law within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and submit the results to the control authority within thirty (30) days after becoming aware of the violation.

(f) *Availability of reports to officials.* All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or KDHE upon their request.

(g) *Reports of hazardous waste.*

(1) The industrial user shall notify the POTW, the EPA regional waste division director, and state hazardous waste authorities in writing of any discharge in the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR, Part 261, the

EPA hazardous waste number, and the type of discharge (continuous batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent that such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place within one hundred eighty (180) days of July 24, 1990, the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR, Section 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self monitoring requirements of 40 CFR, Section 403.12(b), (d), and (e).

(2) Dischargers are exempt from the requirements of this subsection during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR, Sections 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste the industrial user must notify the POTW, the EPA regional waste division director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(h) Certification of Pollutants Not Present

Users that have an approved monitoring waiver must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report.

The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 A (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Superintendent must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Superintendent for 3 years after expiration of the waiver.

(i) *Availability of reports to public and other governmental agencies.* Except as provided in paragraph (f) of this section, information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public and other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to other governmental agencies upon written request for uses related to this article, the NPDES permit, the pretreatment programs or for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information, accepted by the city as confidential, shall not be transmitted to the general public or any governmental agency (other than KDHE or EPA as set forth in paragraph (f)) until or unless a ten-day notification is given to the user.

(Ord. No. 84-39, § 10, 8-1-84; Ord. No. 91-11, § 12, 6-5-91)

Sec. 28-132. Bypass.

(a) *Definitions.*

(1) *Bypass* means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

(2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) *Bypass not violating applicable pretreatment standards or requirements.* An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraph (c) and (d) of this section.

(c) *Notice.*

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, if possible at least ten (10) days before the date of the bypass.

(2) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the control authority within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) *Prohibition of bypass.*

(1) Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

c. The industrial user submitted notices as required under paragraph (c) of this section.

(2) The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three (3) conditions listed in paragraph (d)(1) of this section.

(Ord. No. 91-11, § 13, 6-5-91)

Sec. 28-133. Upset provision.

(a) *Definition.* For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) *Effect of an upset.* An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c) are met.

(c) *Conditions necessary for a demonstration of upset.* An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operative logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the cause(s) of the upset.

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(3) The industrial user has submitted the following information to the POTW and control authority within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

a. A description of the indirect discharge and cause of noncompliance.

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.

c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) *Burden of proof.* In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) *Reviewability of agency consideration of claims of upset.* In the usual exercise of prosecutorial discretion, agency enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final agency action subject to judicial review. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with categorical pretreatment standards.

(f) *User responsibility in case of upset.* The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails. (Ord. 91-11, § 14, 6-5-1991)

Sec. 28-134. Slug Discharge Control: Spill Control Plan:

The control authority shall inspect and sample the effluent from each significant industrial user at least once a year. Additionally, the control authority shall evaluate, at least once every two (2) years, whether each such significant industrial user needs to ~~plan to control slug discharges~~ **submit a spill control plan**. The results of such activities shall be available to the approval authority upon request. If the POTW decides that a slug **spill** control plan is needed, the significant industrial user shall prepare, subject to the approval of the control authority, and implement the plan and it shall contain, at a minimum, the following elements:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of any stored chemicals;

(3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR section 403.5(b), with procedures for follow up written notification within five (5) days;

(4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response. (Ord. 91-11, § 15, 6-5-1991)

(5) Reports of Changed Conditions. Each User must notify the Superintendent of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

A. The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an updated wastewater discharge permit application.

B. The Superintendent may issue an individual wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

C. Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

Secs. 28-135–28-140. Reserved:

DIVISION 5. USER CHARGES

Sec. 28-141. Levied:

There is hereby levied on all persons using the wastewater collection and treatment system of the city a schedule of charges provided in this division. (1962 Code § 19-301; Ord. 963, § 1, 8-1-1979)

Sec. 28-142. Classification Of Users:

All users of the wastewater treatment and collection system of the city are hereby classified in the following manner:

(1) *Residential*: Any premises served upon which is located a structure housing one family and which has metered water consumption supplied by an approved water meter.

(2) *Multifamily*: Any premises designed for occupation by more than one family.

(3) *Educational, Religious, Public and Charitable*:

a. Public and parochial schools, colleges, and universities;

b. Churches;

c. Public buildings and lands which are declared by the director of revenue and taxation of the state to be exempt from the payment of ad valorem taxes;

d. Charitable institutions which are declared by the director of revenue and taxation of the state to be exempt from the payment of ad valorem taxes.

(4) *Commercial and Industrial:* All users other than those above classified which have metered water consumption.

(5) *Other:* All users other than those above classified who do not have metered water consumption. Such users will be charged by contract with the city in a manner both adequate to the operation, maintenance and replacement needs of the wastewater system and proportional to other users. (1962 Code § 19-303; Ord. 963, § 1, 8-1-1979; Ord. 20-27, § 2, 9-16-2020)

Sec. 28-143. Service Charge Established:

Monthly sewer service charges based on meter size and the amount of water used in or on the premises as the same is measured by a water meter or meters are hereby established subject to the exceptions provided. All meters must be approved by the city manager in accordance with standards adopted by the governing body.

Multiple-Dwelling Units. Any premises equipped or built to be occupied as a duplex, apartment house or by other multiple-dwelling units, or occupied in conjunction with a commercial building or other building and which receives sewer service from a single meter shall pay the monthly sewer service charge for on dwelling unit based on the size of meter installed plus an additional service charge for each additional dwelling unit at a rate equivalent to the 5/8 inch meter rate in Sec. 28-144, as may be amended from time to time. (1962 Code § 19-304; Ord. 963, § 1, 8-1-1979; Ord. 20-27, § 3, 9-16-2020)

Sec. 28-144. Schedule Of Charges:

The following schedule of charges, which includes a portion designated as the user charges, will be implemented. The user charge portion is to be for the payment of costs of operation and maintenance (including replacement) of the wastewater collection and treatment system.

(1) *Monthly Service Charge:* A monthly service charge for all metered users is established as follows:

| Meter Size (Inches) | Inside City | Outside City |
|---------------------|-------------|--------------|
| 5/8 | \$ 20.12 | \$ 40.24 |
| 3/4 | 20.59 | 41.18 |
| 1 | 20.87 | 41.74 |
| 1 1/2 | 21.68 | 43.36 |
| 2 | 28.22 | 56.44 |
| 3 | 42.07 | 84.14 |
| 4 | 60.27 | 120.54 |
| 6 | 107.72 | 215.44 |
| 8 | 170.21 | 340.42 |

| | | |
|----|--------|--------|
| 10 | 252.59 | 505.18 |
|----|--------|--------|

Exception: Those single-family residences with meters larger than five-eighths inch ($\frac{5}{8}$ ") will be charged at the five-eighths inch ($\frac{5}{8}$ ") rate.

(2) *Residential Metered Quantity Charge:* Additional quantity charges for the residential classification, as defined in section 28-142 of this chapter, shall be based upon the average monthly billable water usage during the months of January through March, at the following rates:

| Inside City | Outside City |
|--------------------------|--------------------------|
| \$3.91 per 1,000 gallons | \$7.82 per 1,000 gallons |

All residential users for which an average cannot be established from usage for January through March shall be billed on the basis of eighty five percent (85%) of their monthly usage of water until such average can be established.

(3) *Metered Quantity Charge For All Classifications Except Residential:* Additional quantity charges for all classifications except residential shall be based upon one hundred percent (100%) of metered water usage, except as provided for in section 28-150 of this chapter, at the following rates:

| Inside City | Outside City |
|--------------------------|--------------------------|
| \$3.91 per 1,000 gallons | \$7.82 per 1,000 gallons |

(1962 Code § 19-305; Ord. 963, § 1, 8-1-1979; Ord. 974, § 1, 10-3-1979; Ord. 1082, § 1, 2-3-1982; Ord. 86-3, § 1, 3-5-1986; Ord. 90-10, § 1, 5-16-1990; Ord. 98-1, § 1, 1-7-1998; Ord. 01-03, § 1, 1-17-2001; Ord. 03-34, § 1, 10-15-2003; Ord. 05-11, § 1, 3-16-2005; Ord. 07-08, § 1, 4-18-2007; Ord. 16-43, 11-2-2016; Ord. 17-48, § 1, 12-20-2017; Ord. 18-40, § 1, 11-7-2018; Ord. 19-29, § 1, 11-6-2019)

Sec. 28-145. User Charge Rate Review:

The user charge portion of the rate structure will be reviewed at least annually to accomplish the following:

- (1) Ensure that the extant user charge rate is adequate to cover operation, maintenance and replacement costs.
- (2) Ensure that operation, maintenance, and replacement costs are being distributed proportionally among users and user classes. (1962 Code § 19-306; Ord. 963, § 1, 8-1-1979)

Sec. 28-146. Excess Revenue:

Any excess revenue collected from a class of users shall be applied to the costs of operation, maintenance, and replacement needs attributable to that class for the next year. The next year's rate shall be adjusted accordingly. (1962 Code § 19-307; Ord. 963, § 1, 8-1-1979)

Sec. 28-147. Increased Costs:

Any user which discharges any toxic pollutants which cause an increase in operation, maintenance, and replacement costs shall pay for such increased costs. (1962 Code § 19-308; Ord. 963, § 1, 8-1-1979)

Sec. 28-148. User Notification:

The city shall notify each user annually with a regular bill of the rate and that part of the user charge attributable to wastewater treatment services. (1962 Code § 19-309; Ord. 963, § 1, 8-1-1979)

Sec. 28-149. Extra Strength Surcharge:

An extra strength surcharge is hereby established for those nonresidential users who produce sewage with a BOD index above 300 or an SS index above 300, in accordance with the following formula:

| | | | |
|--|----------------|--|---|
| | S = | | $V_s \times 8.34 [\$0.09093 (BOD-300) + \$0.083980 (SS-300)]$ |
| Wherein the following definitions apply: | | | |
| | S = | | Surcharge in dollars monthly |
| | $V_s =$ | | Sewage volume in million gallons per month |
| | 8.34 = | | Pounds per gallon of water |
| | $\$0.09093 =$ | | Unit charge for BOD in dollars per pound |
| | BOD = | | Biochemical oxygen demand five (5) day strength index in millig |
| | 300 = | | Normal BOD strength in milligrams per liter by weight |
| | $\$0.083980 =$ | | Unit charge for SS in dollars per pound |
| | SS = | | Suspended solids strength index in milligrams per liter by weight |
| | 300 = | | Normal SS strength in milligrams per liter by weight |

Revenue received from the user charge portion of the extra strength surcharge shall be deposited in the sewer fund and utilized in the same manner as other operation and maintenance funds.

Revenue received from the capital charge portion of the extra strength surcharge shall be deposited in the sewer fund and administered in the same manner as other capital charge revenue. (1962 Code, § 19-310; Ord. 963, § 1, 8-1-1979; Ord. 974, § 2, 10-3-1979; Ord. 1082, § 1, 2-3-1982; Ord. 99-2, § 1, 1-20-1999; Ord. 00-06, § 1, 1-5-2000; Ord. 01-04, § 1, 1-17-2001)

Sec. 28-150. Exception To Scheduled Charges:

Exceptions to scheduled charges shall be as follows:

(1) If the owner or party to whom the sewer charges are made alleges a portion of the water used does not enter the city's wastewater system, they may request a special billing under the following conditions:

a. By making a written request for special billing to the city engineer or the city clerk and the payment of a one hundred dollar (\$100.00) annual special billing fee; and

b. The installation of a separate city-approved meter installed and maintained by the user at the user's expense; or by auditable records approved by the city engineer and kept and maintained by such user at the user's expense and filed with the city engineer at such interval as the city may require for his inspection and use in determining the amount of wastewater actually discharged; or by such other method or timing of monitoring/metering as the city engineer may determine in his discretion, provided that the monitoring/metering of the wastewater flow shall be conducted at least for a week twice per year.

The quantity charges for such premises, including, to the extent applicable, the volume component under the formula established under section 28-149 of this division, shall be based on the amount of such water which is actually discharged into the city's wastewater collection and treatment system, provided the wastewater is not being improperly disposed of in some manner.

(2) If the amount of water actually discharged into the city's wastewater collection system is at least ten percent (10%) less than the amount of water usage, the city manager or his designee shall have the right to waive any fees and expense reimbursement established under subsection (1) of this section. No differentiation between the amount of water usage and the discharge into the wastewater collection system shall entitle the user to any rebate of scheduled charges or surcharges it being the responsibility of the user to request any exception to the charge calculations.

(3) Water, as measured by separate meter and used only for the operation of lawn sprinkling systems on the premises and from which no other outlet is provided, shall not be included in the determination of wastewater collection and treatment charges for the premises. (1962 Code, § 19-311; Ord. 963, § 1, 8-1-1979; Ord. 98-20, § 1, 7-1-1998)

Sec. 28-151. Water From Other Sources:

If on any premises, except those classified residential, which is connected to the wastewater and treatment system of the city, water is obtained from a source other than the city's water system, then the charge to be made against such premises shall be based on the aggregate quantity of water received on the premises from the city's water supply and all other sources as established by separate approved meter installed by such user at his own expense or by other city-approved records kept and maintained by such user and open to inspection by a city representative. (1962 Code, § 19-312; Ord. 963, § 1, 8-1-1979)

Sec. 28-152. Billing Procedures; Discontinuance Of Services:

Bills for the service charges for the use of the wastewater collection and treatment system by a premises shall be rendered to the person or legal entity designated by the owner, his agent, tenant or occupant to receive the water bill. The bills for the service charges for the use of the wastewater collection and treatment system shall be rendered monthly and the due date to pay such bills shall be the same as the date for the water bill rendered to the name and address designated for such premises. When any bill is ten (10) days in default, rendition of water service to such premises shall be discontinued until such bill is paid following the due notice and opportunity for hearing. When a premises is not connected with the city water system and therefore no water bill is rendered, the bill for service charges for the use of the wastewater collection treatment system shall be rendered monthly and shall be payable each month on or before thirty (30) days after the date shown on the statement, and failure to pay said bill shall be a lien upon premises so served in accordance with section 28-153 of this division. The city clerk shall have authority to make corrections or refunds of overpayment on service bills due to errors in metering, billing, or in receiving payment, but shall have no authority to remit or diminish bills for any other reason. (1962 Code, § 19-313; Ord. 963, § 1, 8-1-1979)

Sec. 28-153. Lien For Unpaid Charges:

In the event such charges for the use of the wastewater collection and treatment system are not paid within the time and in the manner as by this article provided, the city clerk shall certify to the county clerk the legal description of the real property enjoying the use of the wastewater collection and treatment system together with the amount of such charge or charges remaining unpaid. Such amount shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are by law collectible, and shall become a lien upon the real property so served. (1962 Code, § 19-302; Ord. 963, § 1, 8-1-1979)

Sec. 28-154. Pretreatment Program Implementation Fees:

Applicable charges or fees shall be set forth in the city's industrial waste discharge permit fee. The city may adopt the following charges and fees, if required, to recover the costs of implementation of the pretreatment program:

- (1) Fees for monitoring, inspections and surveillance procedures.
- (2) Fees for reviewing accidental discharge construction and procedures.
- (3) Fees for permit.
- (4) Fees for filing appeals. (Ord. 84-30, § 11, 8-1-1984; Ord. 87-22, § 4, 8-5-1987)

Secs. 28-155–28-165. Reserved:

DIVISION 6. OTHER FINANCIAL MATTERS

Sec. 28-166. Creation Of Funds:

(a) There is hereby created and ordered to be established in the treasury of the city two (2) separate funds designated as the "Sewer Fund" and the "Sewer Bond Reserve Fund". All of the revenues derived by the city from the operations of its sewer system, including all revenues from improvements, extensions, and enlargements, and extra strength surcharge payments shall be paid and deposited in the "Sewer Fund" and said revenues will not be mingled with other funds of the city and shall be administered and used solely as herein provided.

(b) The "sewer fund" shall be used for the purposes of operating, maintaining, and replacing the sewer system of the city. It shall be supported by the user charge portion of the rate schedule.

(c) The "sewer bond reserve fund" shall be used for the purposes outlined in the bond covenants of Ordinance Number 892. It shall be supported by the capital charge portion of the rate schedule.

(Code 1962, § 19-401; Ord. No. 963, § 1, 8-1-79)

Sec. 28-167. Sewer fund accounts.

(a) There are hereby created within the sewer fund the following separate accounts to be known respectively as follows:

(1) *Commercial and general*: This activity includes the administration, billing and accounting of sewer revenues and expenditures.

(2) *Sewage collection and maintenance*: This activity includes the cleaning and maintenance of sewer laterals and lift stations.

(3) *Sewage treatment*: This activity provides for the operation and maintenance of the wastewater treatment plant.

(4) *Capital outlay (replacement)*: This activity provides for capital improvements to the wastewater treatment plant and sewer system, including lift stations.

Separate accounts, placed into non-lapsing replacement accounts shall be established for the treatment plant and the sewer system. Initially, the minimum annual amounts placed into these accounts are, respectively, twenty five thousand five hundred dollars (\$25,500.00) for the treatment plant, and six thousand two hundred dollars (\$6,200.00) for the sewer system. These amounts shall be reviewed annually and adjusted accordingly to meet the actual replacement needs of the system, as provided in section 28-145 of this chapter.

(b) All revenues collected from the user charge portions of the city's wastewater collection and treatment charge will be deposited in the sewer fund and used only for activities designated in subsection (a) which are multiple accounts within the fund. No revenues from these accounts shall be used for expanding or enlarging the sewer system. Activities balances within this account shall be carried forward to the next accounting period.

(c) Any excess revenues generated from the user charge portions will be treated as provided for in section 28-146 of this chapter.

(d) Should the revenues generated by the user charge portions of the city's wastewater collection and treatment charge not be sufficient to meet the operation and maintenance and replacement needs of the city's wastewater collection and treatment system, the sewer fund shall have priority in receipt of other sewer revenues.

(Code 1962, § 19-402; Ord. No. 963, § 1, 8-1-79; Ord. No. 93-14, § 1, 6-16-93)

Sec. 28-168. Sewer bond reserve fund accounts.

There are hereby created within the sewer bond reserve fund the following separate accounts to be known respectively as follows:

(1) *Principal and interest account*. This account is established to provide for the payment of the principal and interest on 1978 bonds.

(2) *Invested sinking fund account*. This account is established to provide for the purchase of obligations of the United States, as provided for in Section 12(c) of Ordinance Number 892. Interest earned on these securities will be retained in this account per Section 12(c) of Ordinance 892.

(3) *Bond reserve account*. This account is established to provide a reserve to prevent any default in the payment of interest on or principal of the outstanding 1978 bonds. Interest earned on monies in this account shall be deposited in the extension and retirement account.

(4) *Depreciation and replacement reserve account*. This account is established to provide a reserve for the purpose of paying operating expenses and making emergency repairs and replacement in and to the city's sewer system and keeping the same in good repair and working order so that the sewer system may continue in effective and efficient working operation. Monies in this account shall be used only if no other funds are available for the aforementioned purposes. Interest earned on monies deposited in this account shall be credited to the extension and retirement account.

(5) *Extension and retirement account*. This account is established to provide for the following activities:

a. Paying the cost of operation, maintenance, and repair of the sewer system to the extent that may be necessary after the application of the monies held in the sewer fund under the provisions of section 28-167 of this chapter.

b. Anticipating payments into or increasing the amounts of or the accounts referred to in this section, or any of them or establishing or increasing the amount of any principal and interest account or bond reserve account created by the city for the payment of any sewer system revenue bonds of the city hereinafter issued under the conditions hereinafter specified and standing on a parity with the 1978 bonds.

c. Paying the cost of improving, extending or enlarging the sewer system.

d. Paying the interest on or principal of general obligation sewer system bonds of the city hereinafter authorized and issued by the city for the purpose of improving, extending, or enlarging the sewer system.

e. Redeeming and paying bonds prior to maturity in accordance with their terms, or purchasing at the market price thereof, 1978 bonds or bonds hereafter issued and standing on a parity with the 1978 bonds, any such bonds so redeemed or purchased by the city to be cancelled. No monies paid or credited from the sewer fund to the extension and bond retirement account shall ever be used or applied to the general governmental or municipal functions of the city so long as any of the 1978 bonds remain outstanding. This activity shall also be credited with all interest earned on monies deposited in the bond reserve account, and depreciation and replacement reserve account.

(6) *General obligation bond payments account.* This account is established to provide for the payment of principal and interest on the following outstanding general obligation bonds:

a. City of Emporia sewage treatment plant expansion bonds, series 1964(A), 3-1-64.

b. City of Emporia sewage treatment works bonds, series 1958(1), 3-1-58. All revenues deposited in the preceding accounts enumerated in this section shall be revenues of the capital charge portion of the sewer charge and used in a manner herein provided.

Code 1962, § 19-403, Ord. No 963, § 1, 81-79)

Sec. 28-169. Books and records; annual audit.

(a) The city will install and maintain proper books, records and accounts (entirely separate from all other records and accounts of the city) in which complete and correct entries will be made of all dealings and transactions of or in relation to the properties, business and affairs of the sewer system. Such accounts shall show the amount of revenues received from said System, the application of such revenues, and all financial transactions in connection therewith. Said books shall be kept by the city according to standard accounting practices as applicable to the operation of sewerage utilities. The city will operate the sewer system on the basis of a fiscal year beginning on January 1 and ending on December 31.

(b) Annually, as soon as possible, following the close of each fiscal year, the city will cause an audit to be made by a competent firm of certified public accountants experienced in public utility accounting of the accounts of the sewer system for the preceding fiscal year. Each such audit, in addition to such matters as may be thought proper by said accountants, shall, without limiting the generality of the foregoing, include statements of gross revenues, operational expenditures, and net operational incomes and shall contain an operational balance sheet, a statement of profit and loss, a statement of all bonds called or matured and all interest paid, a statement of the number of customers served, a statement of the amount and character of all insurance

carried, and a statement and summary of the accountants' recommendations as to the city's practices and procedures of the sewer system operations.

(Code 1962, § 19-404; Ord. No. 963, § 1, 8-1-79)

Sec. 28-170–28-180. Reserved.

Memo

TO: City Commission

FROM: Dean Grant, Director of Public Works

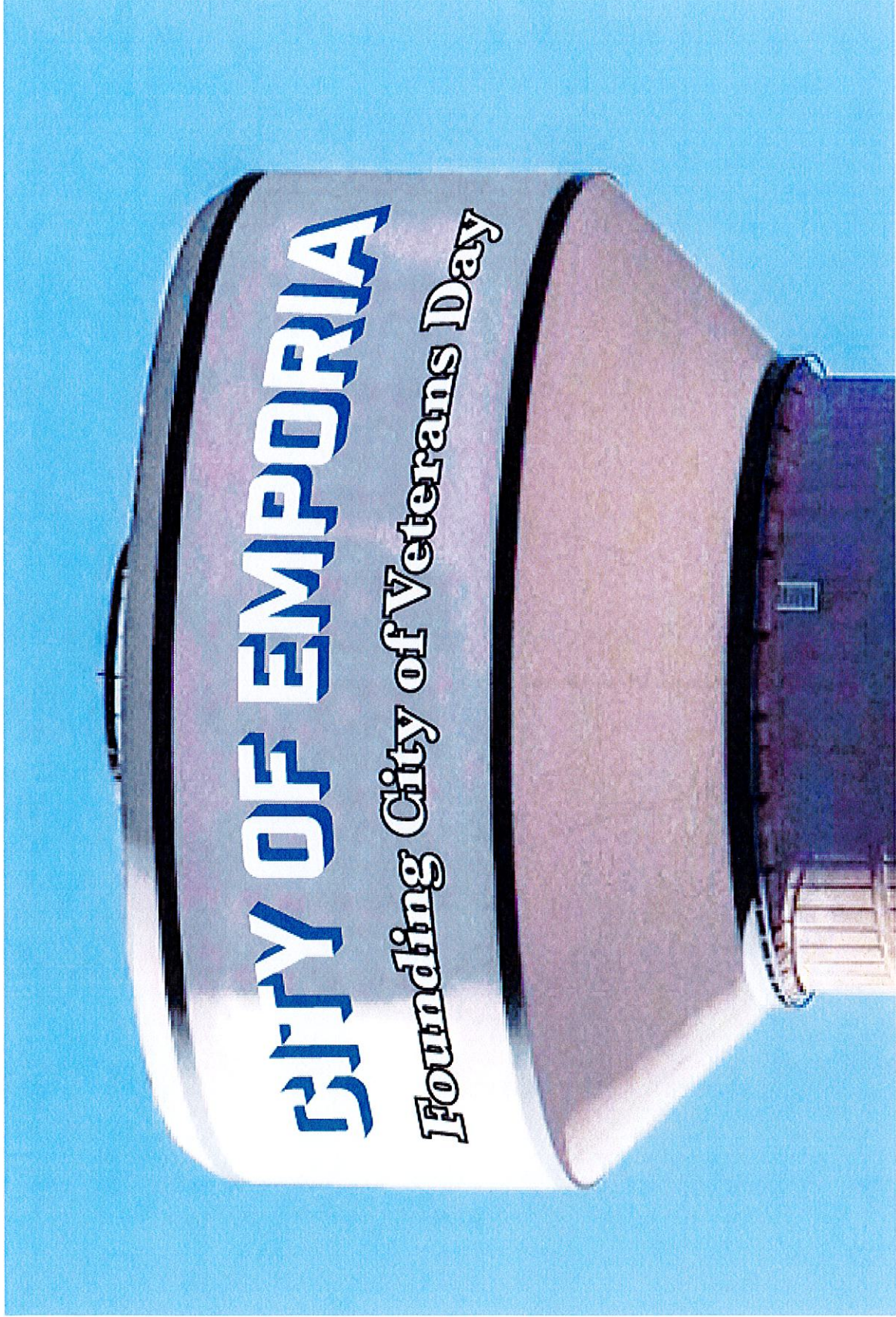
CC: Department Heads

DATE: January 20, 2022

SUBJECT: 12th Avenue Elevated Storage Tank Logos

Discuss the possible logos for the 12th Avenue Elevated Storage Tank. The logo would be added to the rehabilitation project that KLM is currently designing.

Attachment: Logo Proofs



Dawson May
18 South Commercial | Emporia, KS 66801
620.343.6411 | 800.443.6411 | Fax: 620.343.9233
www.coffeltsigns.com



Date: 1/19/22

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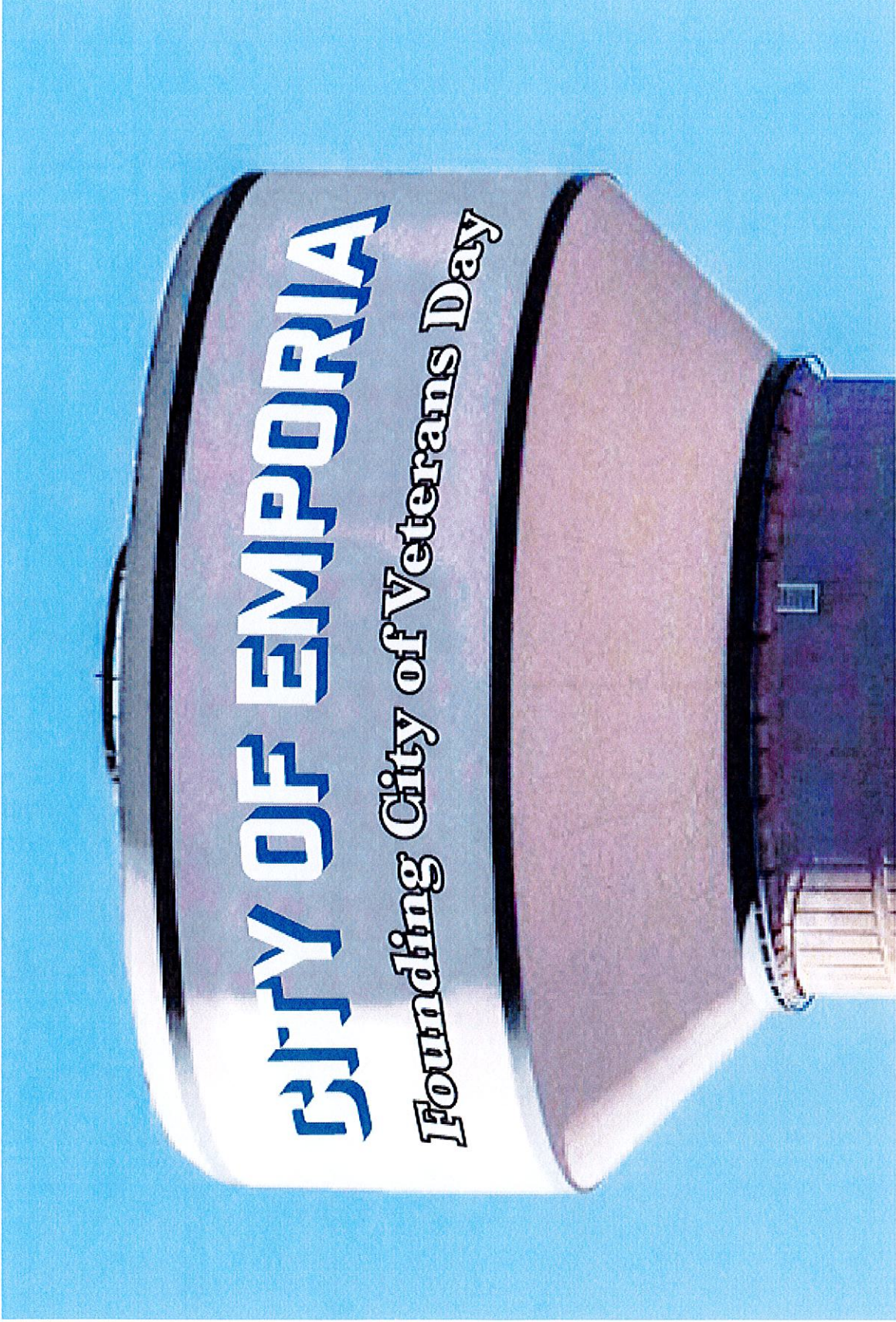


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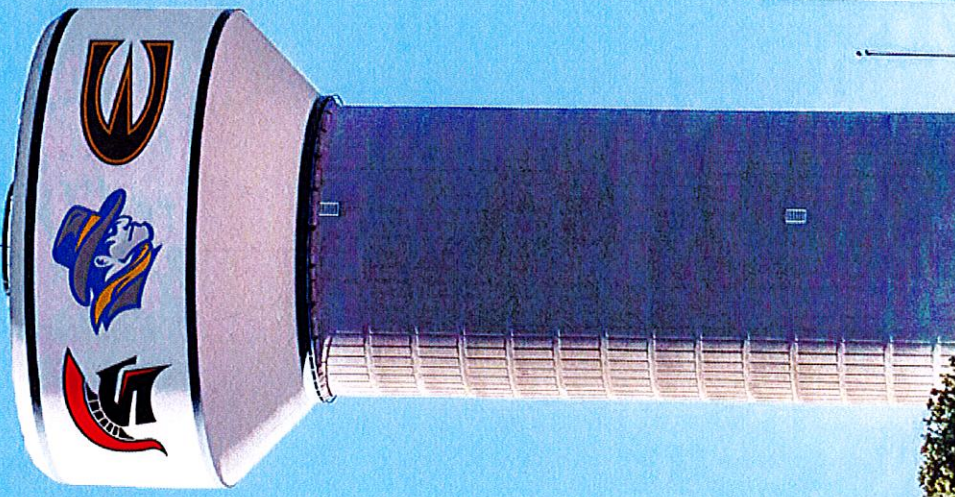


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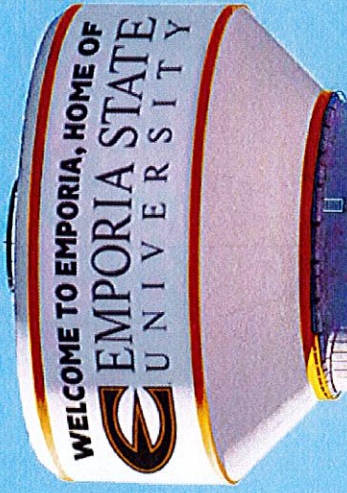
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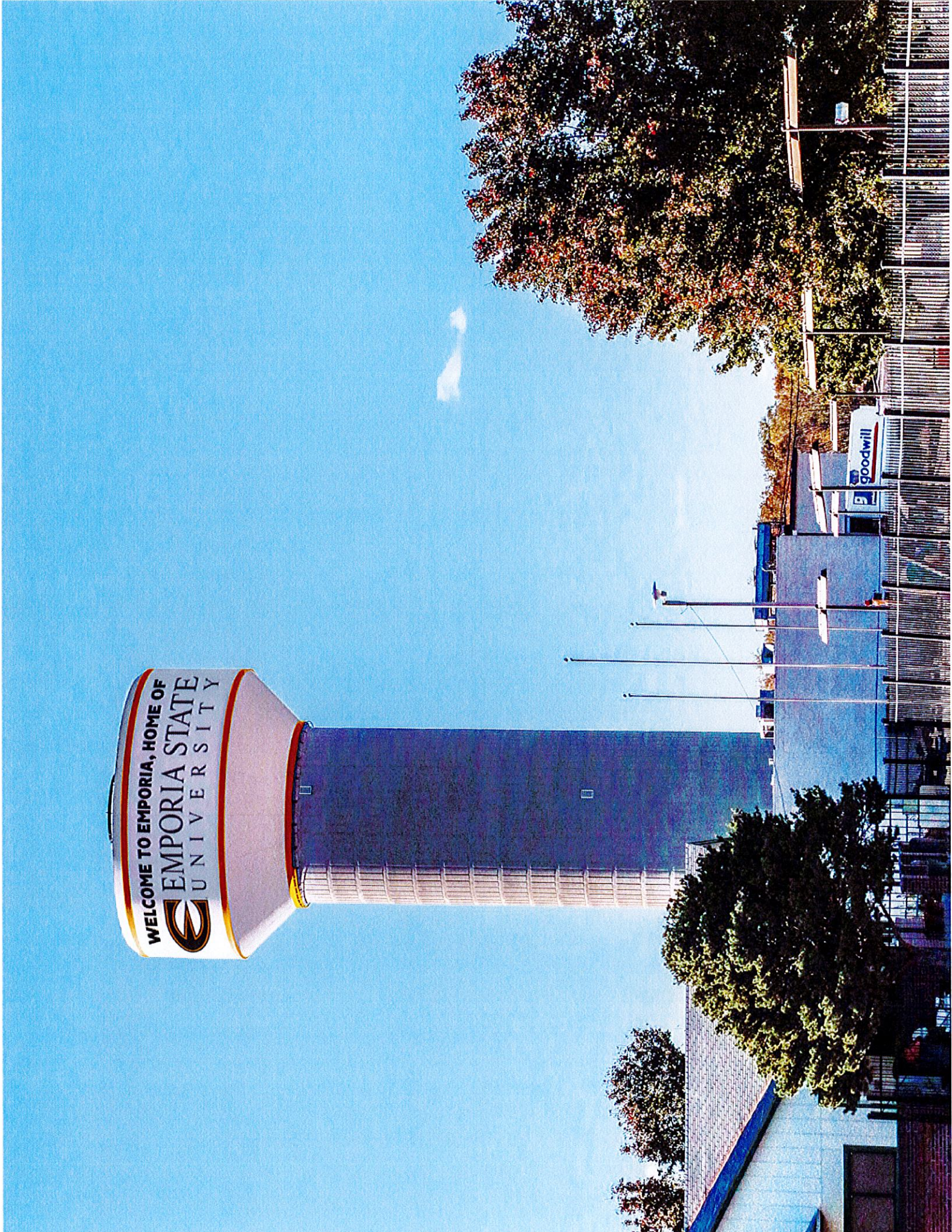
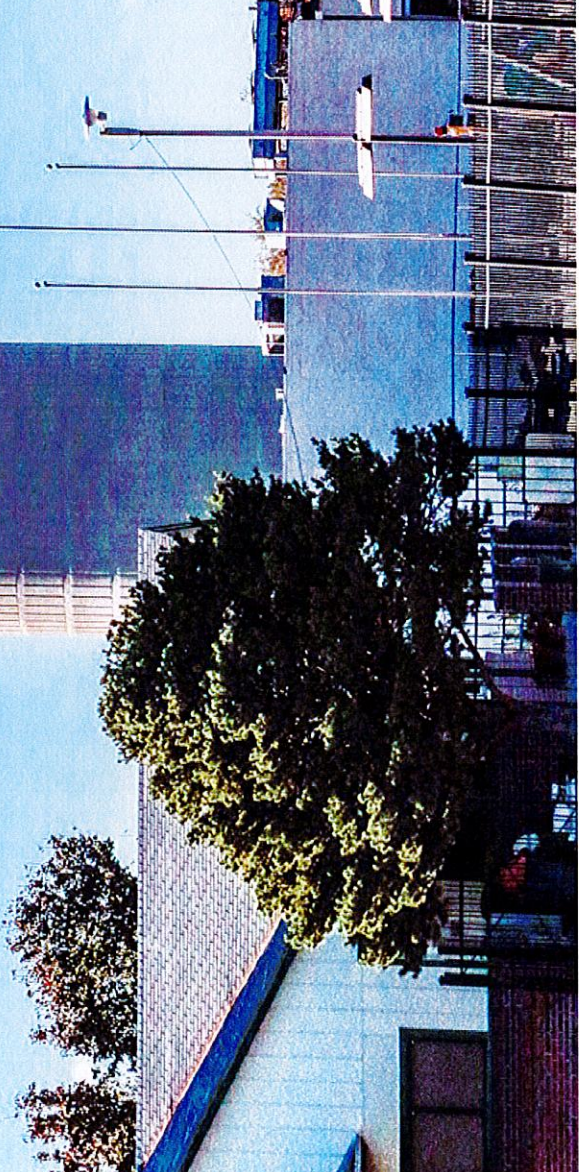
goodwill

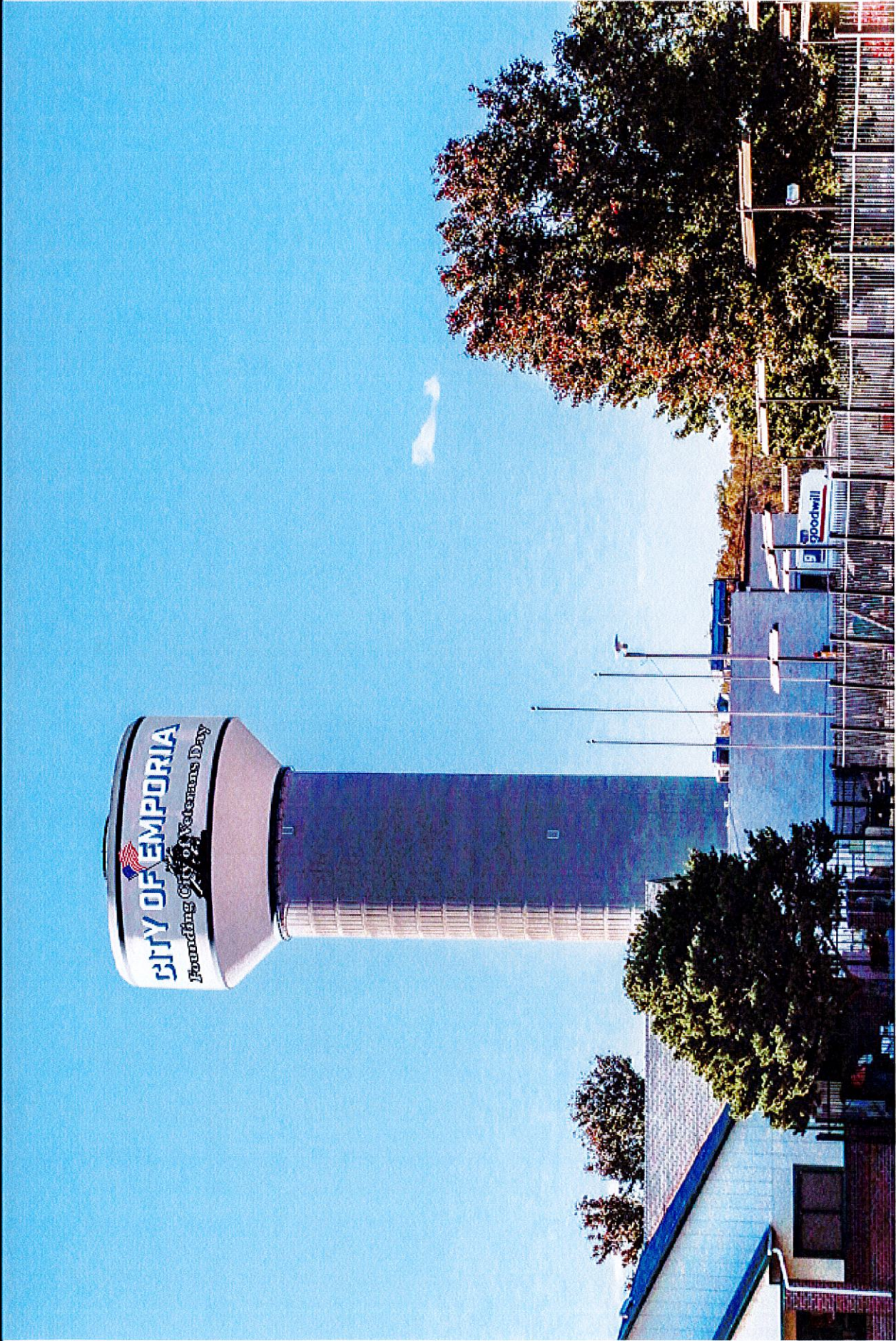


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goodwill





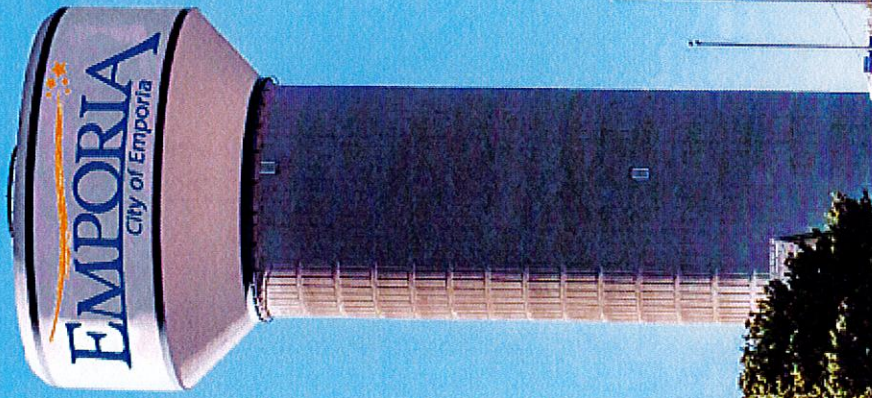
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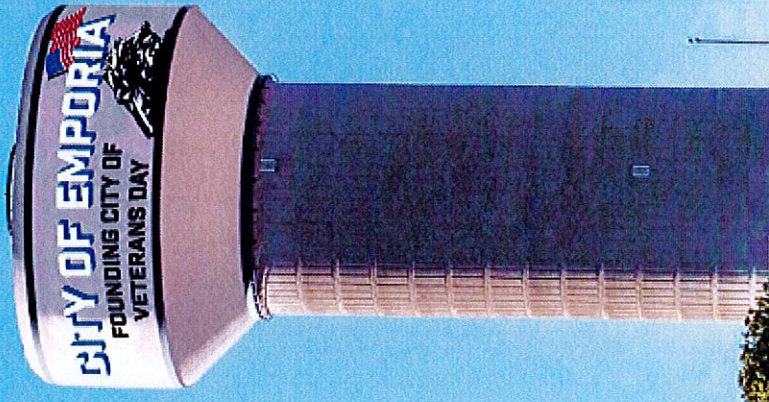


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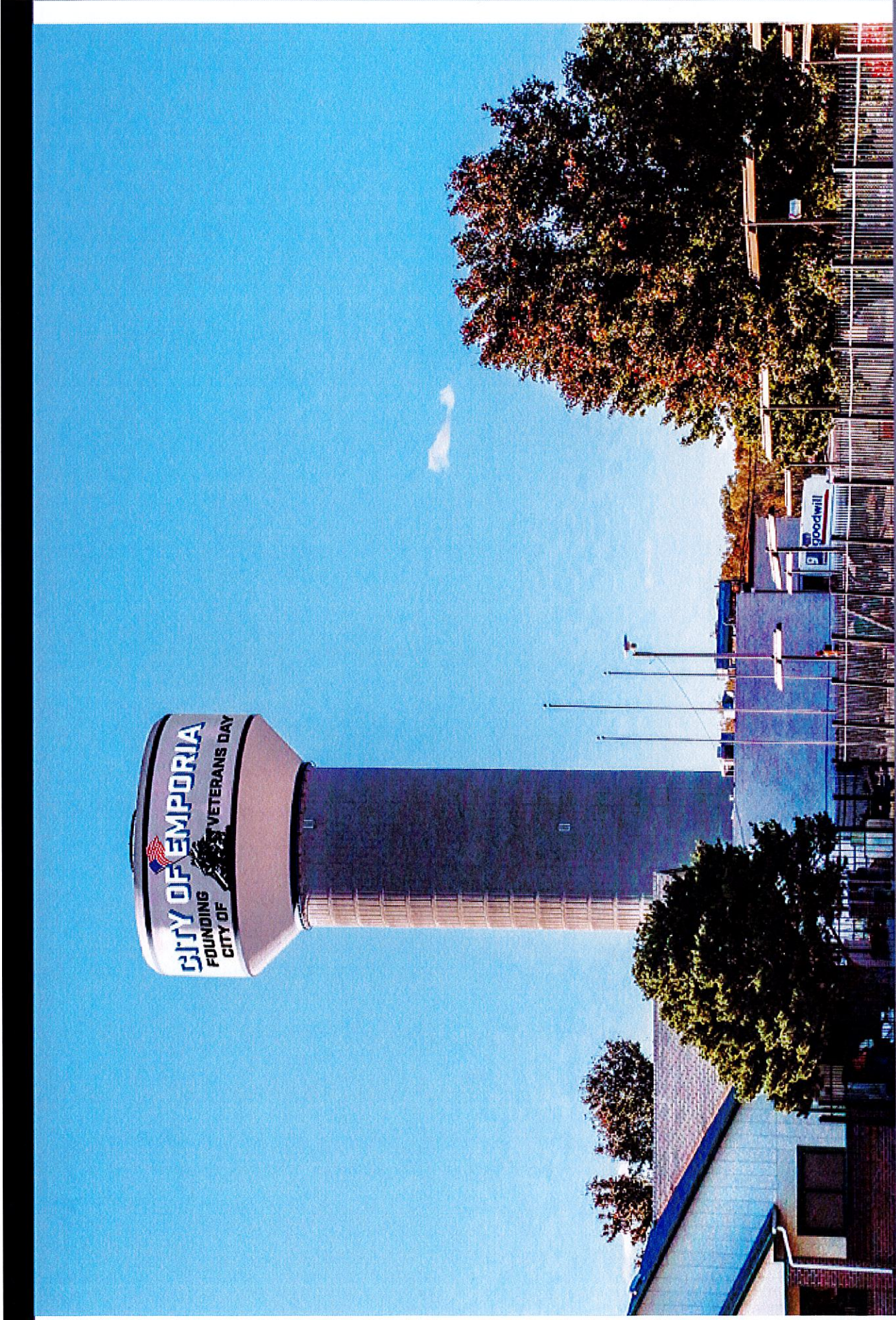


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Date: 1/20/22

CUSTOMER APPROVAL

Memo

TO: City Commission

FROM: Dean Grant, Director of Public Works

CC: Department Heads

DATE: January 19, 2022

SUBJECT: Public Works Pavement Improvement Project Change Order No. 1

Public Works staff is requesting approval of a change order to the Public Works Pavement Improvement Project. In order to address drainage issues, we need to add a section of concrete to the northwest side of the building. The new concrete will be tied into the existing concrete slab to allow for adequate drainage. The change order will add 76 square yards of concrete to the project and \$5,740.00 to the original contract price. The new contract amount will be \$582,645.50.

Memo

TO: City Commission

FROM: Dean Grant, Director of Public Works

CC: Department Heads

DATE: January 19, 2022

SUBJECT: Public Works Pavement Improvement Project Change Order No. 2

Public Works staff is requesting approval of a change order to the Public Works Pavement Improvement Project. We would like to add a concrete storage pad 202 ft x 10 ft to the east side of the Solid Waste Collections barn for the storage of trash and recycling poly carts. This will allow for better organization of the division's assets, making it more efficient to complete work orders. This will add 225 square yards of concrete and \$16,945.22 to the original contract price. New total contract amount, including Change Order No. 1, will be \$599,590.72.

Memo

TO: City Commission
FROM: Trey Cocking, City Manager
CC: Department Heads
DATE: January 21, 2022
SUBJECT: Strategic Planning

As Emporia moves into a new era it is important to be strategic as we move forward and have critical conversation on how to identify those items which are the highest priority to the organization and community. A strategic plan is one of the strongest methods to be successful in that process.

Key elements in strategic planning:

1. Have a clear core mission for the organization.
2. Reviewing the current condition of the organization.
3. Engaging stakeholders.
4. Evaluating future opportunities and threats.
5. Creating a vision of the future.
6. Develop goals for the organization to achieve the vision.
7. Develop action steps to implement the goals.
8. Continuously reviewing the progress of the plan.

The first step for the commission to decide on is the process to utilize in strategic planning:

1. Turnkey Method: Hire a firm to run a strategic planning process, estimated costs-\$20,000-\$40,000.
2. Facilitator Method: Look for a local facilitator to assist with the development of a strategic plan-\$5,000-\$10,000.
3. Internal Method: Utilize Staff to Develop a strategic plan-staff time, loss of ability to work on other projects.