

**CITY OF SPRINGDALE, ARKANSAS**

**CHAPTER 107**

**STORMWATER POLLUTION  
PREVENTION,  
GRADING,  
AND EROSION CONTROL**



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## SEC. 107.1. GENERAL PROVISIONS

**A. Purposes.** The purpose and objectives of this Chapter are as follows:

1. To maintain and improve the quality of water impacted by the storm drainage system within the City of Springdale.
2. To prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Springdale.
3. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
5. To facilitate compliance with state and federal standards and permits by owners of construction sites within the City.
6. To enable the City to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for stormwater discharges.

**B. Administration.** Except as otherwise provided herein, the Director of Planning and Community Development shall administer, implement, and enforce the provisions of this Chapter.

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

ADEQ – Arkansas Department of Environmental Quality  
BMP - Best Management Practices  
CFR - Code of Federal Regulations  
EPA - U.S. Environmental Protection Agency  
HHW - Household Hazardous Waste  
MS4 - Municipal Separate Storm Sewer System  
NPDES - National Pollutant Discharge Elimination System  
SWP3 - Stormwater Pollution Prevention Plan

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

Authorized Enforcement Agency - Employees or designees of the Director of the municipal agency designated to enforce this ordinance.

Best management Practices (BMPs) - Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the City. BMPs also include treatment practices, operating procedures, and practices to control site

runoff, spillage of leaks, sludge or waste disposal, or drainage from raw material storage.

*BMPs may also refer to alternatives to practices that improve the water quality and flow management functions and benefits of the open drainage system such as piping, filling or hardening open drainage ways. BMPs include, but are not limited to:*

- a. physical structures or created natural features such as wetlands or ponds that improve water quality and/or attenuate flow;*
- b. maintenance or construction practices that prevent erosion, control sedimentation, and reduce pollution entering runoff;*
- c. educational strategies that inform the public, developers, business/industry, etc. on stormwater pollution prevention;*
- d. regulations and enforcement programs that protect water quality;*
- e. protection of open drainage ways for stormwater treatment and conveyance, and maintaining adjacent (riparian) buffers to provide natural stormwater filtration, cooling and long-term channel stability and other stormwater management functions;*
- f. and the avoidance of piping, filling, or deteriorating the condition of open drainage ways.*

Treatment controls remove pollutants from stormwater. The selection, application and maintenance of BMPs must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. Specific BMPs shall be imposed by the City and are discussed further in the City of Springdale's Best Management Practices Manual.

*Buffer Zones* - *A perimeter vegetated (100% vegetated with a minimum of 80% coverage) buffer strip shall be temporarily maintained around disturbed areas for erosion control purposes.*

*Buffer Zones (Riparian)* - *An undisturbed buffer as stated below shall be maintained at all times.*

- a. For construction projects where clearing and grading activities will occur, a buffer zone of at least twenty five (25) feet measured horizontally from the top of bank to the disturbed area, from any named and unnamed streams, creeks, rivers, lakes or water bodies.*
- b. A fifty (50) feet buffer zone, as measured from the top of bank to the disturbed area, adjacent to established TMDL water bodies, streams listed on the 303 (d) list, an Extraordinary Resource Water (ERW), Ecologically Sensitive Water body (ESW), Natural and Scenic Waterway (NSW), and/or any other uses at the discretion of the Director.*
- c. Linear projects will be evaluated individually by the Planning Department to determine buffer zone setbacks.*

*City* – is the City of Springdale, Arkansas.

*Clean Water Act* - *The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.*

*Clearing* – the act of cutting, removing from the ground, burning, damaging or destroying trees, stumps, hedge, brush, roots, logs, or scalping existing vegetation.

Commercial – pertaining to any business, trade, industry, or other activity engaged in for profit.

Construction Site – is any location where construction activity occurs.

Contaminated – containing harmful quantities of pollutants.

Contractor – any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

Coordinator -- means the person appointed to the position of Stormwater Program Coordinator by the City of Springdale, Arkansas.

Director – the person appointed to the position of Director of Planning and Community Development or his/her authorized representative.

Discharge – any addition or release of any pollutant, stormwater or any other substance whatsoever into storm drainage system.

Discharger – Any person, who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.

Domestic Sewage – The sewage originating primarily from kitchens, bathrooms and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

Earthwork --the disturbance of soils on a site associated with clearing, grading, or excavation activities.

Environmental Protection Agency (EPA) – the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Facility – any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer -- a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

Fire Protection Water –any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.

Garbage – means putrid ~~putrescible~~ animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

Groundwater – any water residing below the surface of the ground or percolating into or out of the ground.

Harmful Quantity – the amount of any substance that the Coordinator determines will cause an adverse impact to storm drainage system or will contribute to the failure of the City to meet the water quality based requirements of the NPDES permit for discharges from the MS4.

Hazardous Substance – any substance listed in Table 302.4 of 40 CFR Part 302.

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

Household Hazardous Waste (HHW) – any material generated in a household (including single and multiple residences) that would be classified as hazardous.

Illegal Discharge - ~~see illicit discharge below.~~ *Any direct or indirect non-stormwater discharge to the storm drainage system, waterway or any natural body of water, except as may be exempted in this ordinance.*

Illicit Connections - ~~any discharge to the storm drainage system that is prohibited under this chapter.~~ *An illicit connection is defined as either of the following:*

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

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

Industrial Waste (or commercial waste) – any wastes produced as a byproduct of any industrial, institutional or commercial process or operation, other than domestic sewage.

Land Alteration – *Is the process of grading, clearing, filling, excavating, quarrying, tunneling and trenching during construction or similar activities.*

Mechanical Fluid – any fluid used in the operation and maintenance of machinery, vehicles and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.

Mobile Commercial Cosmetic Cleaning (or mobile washing) – *power washing, steam cleaning, and any other method of mobile cosmetic cleaning, of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.*

Municipal Separate Storm Sewer System (MS4) – *the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage, and eventually discharging stormwater into streams and water bodies of the state(s).*

NPDES – *The National Pollutant Discharge Elimination System.*

NPDES Stormwater Discharge Permit – *A permit issued by EPA (or by a State under the authority delegated pursuant to 33 USC § 1342(b) that*

authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group, or general area-wide basis.

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

Notice of Violation – a written notice detailing any violations of this Chapter and any action expected of the violators.

Oil – any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

Operator - *for the purpose of this Ordinance and in the context of stormwater associated with construction activity, means any person (an individual, association, partnership, corporation, municipality, state or federal agency) who has the primary management and ultimate decision making responsibility over the operation of a facility or activity. The operator is responsible for ensuring compliance with all applicable environmental regulations and conditions.*

~~Owner - the person who owns a facility, part of a facility, or land.~~

Person – any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

Pesticide – a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest.

Pet Waste (or Animal Waste) – excrement and other waste from domestic animals.

Petroleum Product – a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

Pollutant – any substance attributable to water pollution, including but not limited to rubbish, garbage, solid waste, litter, debris, yard waste, pesticides, herbicides, fertilizers, pet waste, animal waste, domestic sewage, industrial waste, sanitary sewage, wastewater, septic tank waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste, soil and sediment.

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

chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Potable Water – water that has been treated to drinking water standards and is safe for human consumption.

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

Private Drainage System -- all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, which contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

Qualified Person – a person who possesses the required stormwater certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity. Although not required, a certification obtained through a locally or nationally recognized program such as the NPDES training available through the University of Arkansas CTP program or the Certified Professional in Erosion and Sedimentation Control is preferred.

Release – to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

Rubbish/Trash – ~~non-putrescible~~ *non-putrid* solid waste, excluding ashes, that consist of: (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (b) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary Sewage -- is the domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Sanitary Sewer – is the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

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

Septic Tank Waste – is any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.

Shall – means mandatory; May – discretionary.

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

Solid Waste – any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

State – the State of Arkansas.

Storm Drainage System – Publicly or privately owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural water bodies and human-made or altered drainage channels, reservoirs, and other drainage structures. All surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater and Waters of the State and Waters of the United States.

Stormwater – Stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Management Plan (SWMP): The plan adopted by the City that describes BMPs and activities to be implemented to eliminate or reduce pollutant discharges to stormwater.

Stormwater Pollution Prevention Plan (SWP3) – a document that describes the Best Management Practices to be implemented at a site, to prevent or reduce the discharge of pollutants.

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

Surface Water – is water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

Uncontaminated -- not containing harmful quantities of pollutants.

Used Oil (or Used Motor Oil) – any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

Utility Agency – private utility companies, City departments or contractors working for private utility companies or City departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

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

Water of the State (or water) – any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Standard – the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or Federal regulatory standards to be necessary to protect those uses.

Waters of the United States -- all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “waters of the United States” at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland-- any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard Waste – leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

## **SEC. 107.2. PROHIBITIONS AND REQUIREMENTS**

### **A. Prohibitions**

1. No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated stormwater. Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
2. Any discharge shall be prohibited by this Section if the discharge in question has been determined to be a source of pollutants to the storm drainage system.
3. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
4. No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.
5. No person shall maliciously destroy or interfere with BMP's implemented pursuant to this Chapter.

**B. Exemptions.** The following non-stormwater discharges are deemed acceptable and not a violation of this Section:

1. A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;
2. Uncontaminated waterline flushing and other infrequent discharges from potable water sources;
3. Infrequent uncontaminated discharge from landscape irrigation or lawn watering;
4. Discharge from the occasional non-commercial washing of vehicles on properties zoned A-1, R-E, SF-1, SF-2, SF-3, SF-4, MF-2, MF-4, MF-12, MF-16, MF-24, P-1 or PUD, or the non-commercial washing of vehicles by charitable organizations. *However, individuals and charitable organizations shall choose a biodegradable soap specifically formulated for automotive usage. Even when using biodegradable soap, it is better to avoid paved surfaces and wash your vehicle on unpaved surfaces so that the toxic waste water can be absorbed and neutralized in soil instead of flowing directly into storm drains or open water bodies.*
5. Car Lot Washing - *When washing multiple vehicles at dealerships or used car lots shall use facilities draining directly to the sanitary sewage or use a biodegradable soap specifically formulated for automotive usage, soap shall be both chlorine and phosphate-free as well as non-petroleum-based. All toxic waste water flowing directly into storm drains or open water bodies is prohibited.*
6. Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
7. Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs;
8. Diverted stream flows and natural riparian habitat or wetland flows;
9. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

**C. Requirements Applicable to Certain Dischargers**

1. Private Drainage System Maintenance. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
2. Minimization of Irrigation Runoff. A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
3. Cleaning of Paved Surfaces Required. The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical

fluid, waste materials, sediment or debris is a violation of this ordinance. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. This section does not apply to pollutants discharged from construction activities.

4. Maintenance of Equipment/Construction Vehicle Storage. Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
  5. Wrecked or Disabled Vehicle Storage. Any leak or spill related to wrecked or disabled vehicles stored in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants to streams or water bodies.
    - a. *The complete towed vehicle parking lot for wrecked or disabled vehicles shall be contained.*
  6. Materials Storage. In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of trash, debris, garbage, or hazardous substances is prohibited.
  7. Pet Waste. Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.
  8. Pesticides, Herbicides and Fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
  9. Prohibition on Use of Pesticides and Fungicides Banned from Manufacture. Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any Federal, State or City regulation is prohibited.
  10. Open Drainage Channel Maintenance. Every person owning or occupying property through which an open drainage channel passes shall keep and maintain that part of the drainage channel within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.
- D. Release Reporting and Cleanup.** Any person responsible for a known or suspected release of materials which are resulting in or may result in illegal discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the

release. In the event of such a release of non-hazardous materials, said person shall notify the Director no later than 5:00 p.m. of the next business day.

- E. Authorization to Adopt and Impose Best Management Practices.** The City may adopt and impose requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.

## **SEC. 107.3. STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES.**

### **A. General Requirements for Construction Sites.**

1. Responsibility. The ~~owner/developer~~ *operator* of a site of construction activity shall be responsible for compliance with the requirements of this ordinance.
2. Waste Disposal. Solid waste, industrial waste, yard waste, *trash, rubbish* and any other pollutants or waste on any construction site shall be controlled through the use of Best Management Practices. Waste or recycling containers shall be provided and maintained by the ~~owner~~ *operator* or his/her contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash or otherwise be released from the site is prohibited.
3. Concrete. Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete or *other masonry products*, shall be contained on construction sites *in leak proof containers* for proper disposal. Release of these materials is prohibited.
4. Erosion and Sediment Control. Best Management Practices shall be implemented to prevent the release of sediment from any size construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. ~~Excessive~~ Sediment tracked onto public streets *is prohibited. shall be removed immediately.* *Construction planning shall include site control measures to minimize vehicle tires from carrying sediment onto public streets. Inadvertent sediment tracked onto public streets shall be removed as soon as possible but in all cases the sediment shall be removed prior to the end of the work day or before an impending rain event.*
5. Unattended Sediment Tracking. *In the event the construction site operator disregards the prohibition of sediment tracked onto City streets, the City will utilize City equipment and crew to remove tracked sediment from the given street(s). A minimum fee of \$500 per 100 linear feet of*

*street or highway shall be assessed for each incident, to the construction site payable to the City of Springdale.*

6. Dust sediment Control. *Best Management Practices shall be implemented to prevent the release of sediment from dust from any size construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and Best Management Practices shall be implemented to prevent the release of sediment via dust.*
7. Completion. Upon completion of permitted construction activity on any site, the property ~~owner~~ operator and/or subsequent property owner(s) will be responsible for continued compliance with the requirements of this ordinance, in the course of maintenance, reconstruction or any other construction activity on the site.

**B. Construction Sites Requiring an Approved SWP3.** This section applies to all construction sites where construction on a site will disturb soil or remove vegetation on one ~~(1)~~ half ( $\frac{1}{2}$ ) acre or more acres of land during the life of the construction project. An approved Stormwater Pollution Prevention Plan (SWP3) for the project must be provided and implemented by the construction site ~~owner~~ operator as follows:

- ~~1. The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance. The area disturbed shall be assumed to include the entire property or platted area or the SWP3 must show areas that will not be disturbed by any phase of the construction. In the field, the area shall be protected with high visibility fencing installed around the undisturbed area.~~
2. The SWP3 must be provided by the ~~owner~~ operator and submitted to the City for approval. Two copies of the SWP3 shall be submitted to the Planning and Community Development Division. For sites subject to plan review by the Planning Office, the plan will not be released for construction until an approved SWP3 has been obtained.
3. A review of the SWP3 submitted for the site will be completed and notification will be given of either an approval of the SWP3 or a request for revisions will be made. Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the approval of SWP3 has been given.
4. The ~~owner~~ operator bears the responsibility for implementation of the SWP3 and notification of all contractors and utility agencies on the site.

**C. Subdivision Developments Requiring an Approved SWP3.** Where construction of a subdivision development will disturb soil or remove vegetation on one (1) or more acres of land during the life of the development project, approved Stormwater Pollution Prevention Plans

(SWP3's) for the project must be provided and implemented by the subdivision ~~owner/developer~~ operator as follows:

1. The area disturbed shall be assumed to include the entire property or *platted area or the SWP3 must show areas that will not be disturbed by any phase of the construction. In the field the proposed undisturbed area shall be protected with high visibility fencing installed around the undisturbed area. Phasing on larger construction sites 5 acres or more must be utilized to allow only disturbance on near term construction areas. Construction sites requiring cutting and filling must be seeded once the cutting and filling activity is finished.*
2. SWP3's must be provided by the subdivision ~~owner/developer~~ operator who has the primary management and ultimate decision making responsibility over the operation of subdivision development.
3. SWP3's must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction and general grading. ~~and the construction of individual homes. The subdivision owner/developer will not be required to provide an SWP3 for the activities of utility agencies within the subdivision.~~
4. *If a smaller project (i.e., less than 1 acre) is part of a larger common plan of development such as a subdivision (e.g., you are building a residential home on a one quarter acre lot in a 40 acre subdivision), the lot owner becomes the operator and permit coverage is required and appropriate BMPs for the site must be installed.*
5. The subdivision ~~owner/developer~~ operator shall provide a copy of the approved SWP3's to all utility agencies prior to their working within the subdivision, however *the operator will not be required to provide a SWP3 for the activities of utility agencies within the subdivision.*
6. The subdivision ~~owner/developer~~ operator bears the responsibility for implementation of the approved SWP3's for all construction activity within the development, excluding construction managed by utility agencies.
7. The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWP3's for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.

**D. Stormwater Pollution Prevention Plans.** Preparation and implementation Stormwater Pollution Prevention Plans for construction activity shall comply with the following:

1. Preparation
  - a. The ~~owner/developer~~ **operator** of a site of construction activity shall be responsible for compliance with the requirements of preparation

and implementation of the SWP3 to prevent sediment/pollution from leaving the construction site.

- b. ~~The SWP3 shall be prepared under the direction of the operator by a qualified person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient stormwater education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted stormwater industry standards for such activity.~~
- c. The SWP3 shall be prepared under the direction of the operator by a qualified person.
- d. The SWP3 shall provide the name, address and phone number of the SWP3 designer with stormwater certification, the name of the certification institution, and the SWP3 designer's certification number from that institution.
- e. The SWP3 shall provide the name, address and phone number of the project ~~owner~~ operator for purposes of correspondence and enforcement.
- f. The SWP3 shall identify existing natural resources such as streams, forest cover and other established vegetative cover.
- g. The SWP3 shall specify and provide detail for all BMPs necessary to meet the requirements of this ordinance, including any applicable BMPs that have been adopted and imposed by the City.
- h. The SWP3 shall specify when each BMP will be installed, and for how long it will be maintained within the construction sequence. Multiple plans may be required for major phases of construction such as rough grading, building construction and final grading.
- i. Field changes of BMPS may be necessary to prevent sediment/pollution from leaving the construction site. Changes made in the field that will require removal, modifications or additions to the site BMPs shall require authorized City personnel approval prior to the changes being implemented. Additionally these changes made in the field must be shown on the SWP3 field copy, dated and signed by the site stormwater ~~responsible person~~ qualified person or persons.
- j. The SWP3 shall delineate all anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization.

## 2. Implementation

- a. BMPs shall be installed and maintained by a qualified persons. The ~~owner/developer~~ operator or their qualified person or persons shall be able to provide upon the Coordinator's request a copy of the SWP3 on site and shall be prepared to respond to unforeseen maintenance of specific BMPs.

- b. The ~~owner/developer~~ *operator* or their qualified person or persons shall inspect *and repair* all BMPs at least once ~~per month~~ every 7 calendar days and within 24 hours after a rainfall of one ~~quarter~~ *half* ( $\frac{1}{2}$ ) of an inch or more as measured at the site. *A commercial rain gauge, appropriately installed and capable of accurate site rainfall measurements must be maintained onsite. ~~or generally reported in the Springdale area.~~*
- c. Based on inspections performed by the ~~owner/developer~~ *operator* or by authorized City personnel, modifications *or repairs* to the SWP3 will be necessary if at any time the specified BMPs do not meet the objectives of this ordinance. In this case, the ~~owner/developer~~ *operator* or qualified person or persons shall meet with authorized City personnel to determine the appropriate modifications *or repairs*. All modifications shall be completed within ~~seven (7)~~ *three (3) business* days of the referenced inspection, except in circumstances necessitating more timely attention *such as before or after a rain event*, and shall be recorded on the ~~owner's~~ *operator's field copy* of the SWP3 documentation.

### **Requirements for Utility Construction.**

1. Utility agencies shall be responsible for compliance with the requirements this ordinance.
2. Utility agencies shall develop and implement Best Management Practices (BMPs) by a qualified person or persons to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMPs on utility construction activity.
3. Utility agencies shall implement BMPs by a qualified person or persons to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. ~~Excessive~~ Sediment tracked onto public streets shall be removed ~~immediately~~ *as soon as possible but in all cases the sediment shall be removed prior to the end of the work day or before an impending rain event.*
4. Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the *operator's* qualified person or persons, a copy of any SWP3's for the project. Any disturbance to BMPs resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWP3.

### **Grading Permit**

1. *Findings* – The city has experienced development activity causing the displacement of large amounts of earth and the removal of *natural vegetation and tree cover*. Significant problems resulting from such development include flooding, soil erosion and sedimentation, unstable

slopes, and impaired quality of life. These problems are a concern because of their negative effects on the safety and general welfare of the community.

2. *Purpose* – The purposes of this chapter are to:
  - a. Prohibit the indiscriminate clearing of property.
  - b. Prevent excessive grading, clearing, filling, cutting, or similar activities.
  - c. Substantially reduce flooding, erosion and sediment damage within the city.
  - d. To safeguard the safety and welfare of citizens.
  - e. Establish reasonable standards and procedures for development, which prevent potential flooding, erosion and sediment damage.
  - f. Prevent the pollution of storm drainage systems, streams, ponds and other watercourses.
  - g. Minimize the danger of flood loss and property loss due to unstable slopes.
  - h. Preserve natural vegetation, which enhances the quality of life of the community.
  - i. To *prevent massive erosion and sediment movement and prevent conceal* hillside scars.
  
3. General requirements – Persons engaged in land alteration activities regulated by this chapter shall take measures to protect neighboring public and private properties from damage by such activities. The requirements of this chapter, however, are not intended to prevent the reasonable use of properties.
  - a. Any person who engages in land alteration activities regulated by this chapter without obtaining a grading permit shall be required to restore the land, to the maximum extent practicable to its original condition.
  - b. The permit applicant shall have on the project site at all times an agent or qualified person or persons who is a competent ~~superintendent~~ and capable of reading and thoroughly understanding the plans, specifications and requirements for areas of tree protection for the type of work being performed. The ~~superintendent~~ qualified person or persons shall have full authority to issue orders or direction to employees working on site, without delay and to promptly supply such materials, labor, equipment, tools, and incidentals as may be required to complete the work in a proper manner. If no superintendent is on site, the city official may issue the notice of violation and stop work order to the person conducting the violation.
  
4. Grading Permit Required --
  - a. Any person proposing to engage in clearing, filling, excavating, quarrying, construction or similar activities on any piece of disturbed land of 1 acre or larger shall apply to the Director or his/her assigns for a grading permit as specified in this chapter. An approved large

scale development plan or non-large scale development plan shall be obtained from the city before constructing or expanding a vehicular use area or when expanding or rehabilitating a building and landscaping is required as defined in Chapter 112 and Chapter 56 or its latest revision. Except as otherwise provided, the responsible party shall not be allowed the removal, to be an action resulting in the removal of the root ball, of more than seven (7) trees within any given twelve (12) month period without first obtaining a grading permit. The Director may exempt the need for the permit on a limited case-by-case basis. No land shall be altered or cleared to the extent regulated in this chapter unless approved by a permit.

- b. Any person proposing to engage in clearing, filling, excavating, quarrying, construction or similar activities on any piece of disturbed land of  $\frac{1}{2}$  acre or larger and adjacent to a waterbody on the ADEQ 303 (d) list shall apply to the Director or his/her assigns for a grading permit as specified in this chapter. In these instances, the need for an approved large scale development plan or non-large scale development plan shall be determined by the Director. Except as otherwise provided, the responsible party shall not be allowed the removal, to be an action resulting in the removal of the root ball, of more than three (3) trees within any given twelve (12) month period without first obtaining a grading permit. The Director may exempt the need for the permit on a limited case-by-case basis. No land shall be altered or cleared to the extent regulated in this chapter unless approved by a permit.
- c. No land alteration shall be permitted until all necessary city approval of all plans and permits, except building permit, have been issued and construction is imminent. Clearing and grading for streets and drainage improvements may be done on residential subdivisions following the approval of a preliminary plat, approval of construction plans and specifications, *an approved grading permit* and a pre-construction conference has been held. In those cases where filling or cutting in areas with no trees is to be done, the area is to be graded suitable for mowing and shall be re-vegetated. If building construction has not commenced and been diligently pursued within eight (8) months of plans approval, then all landscaping and tree requirements in the buffers shall be installed, unless the city official determines that the existing buffers on the site meet the landscape planting requirement as set forth in the Springdale Code of Ordinances. .
- d. A grading permit is required for land alteration activities specified in this section. However, all construction work shall include appropriate drainage and erosion control measures to protect neighboring properties. All land alteration in properties within the designated floodplain requires a grading permit without exception.
- e. Prior to issuance of a grading permit, a grading and drainage plan shall be submitted and approved by the City.

- f. Utility organizations ~~may~~ *shall* obtain an annual approval from the city for all routine maintenance, replacement and repair of fence and sign posts, telephone poles and other kinds of posts or poles and overhead or underground electric, water, sewer, natural gas, telephone or cable facilities. The approval will include a utility organization and its contractors, agents or assigns and will be permanent in nature as long as the original approved procedures are followed. However, large-scale utility projects involving clearing *or disturbing* of areas over twenty-five (25) feet in width *and nine-hundred (900) feet long, (or equivalent to 1/2 acre or more)* shall not be authorized by *the annual* one-time approval of all projects. In such cases, a separate grading permit must be obtained for each project.
- g. Approval may be obtained by public or private entities for the stockpiling of construction spoil material at particular locations for a limited time period, not to exceed six (6) months. *Appropriate BMPs must be installed on or around the stockpile area and grading and replanting of grassed areas is required upon removal of stockpile.*
5. Exemptions -- A grading permit shall not be required for *Utility organizations* emergency work or repairs to protect health, safety and welfare of the public. *This would include repair of sign posts, telephone poles and other kinds of posts or poles and overhead or underground electric, water, sewer, natural gas, telephone or cable facilities that require excavating, pumping, dumping or other construction activities. Appropriate BMPs must be utilized on or around the emergency work area.*
6. Contents of grading and drainage plans. The grading and drainage plan shall identify the following:
  - a. Acreage of the proposed project.
  - b. Land areas to be disturbed.
  - c. Stages of grading showing the limits of sections to be graded and indicating the approximate order of development.
  - d. The height and slope of cuts and fills. Cross sections shall be required every one hundred (100) feet on property where the depth of excavation or fills exceeds five (5) feet, showing original and final grades and will include visual aids to show how the final development, including planting and landscaping will look. A grading plan showing existing and proposed contours with a maximum 2-foot contour interval for slopes less than 10% and a maximum 5-foot contour interval for slopes greater than 10% can be shown as an alternate to cross-sections every 50 feet.
  - e. Provisions for collecting and discharging surface water, *including discharged surface water velocities from pipes and open channels.*
  - f. Erosion and sediment measures, including structural and vegetative measures.
  - g. Seal, Certificate of Authority and signature of a registered engineer qualified under state regulations to certify that the grading and drainage plan complies with this chapter.

- h. A vicinity drawing showing location of property lines, location and names of all existing or platted streets or other public ways within or immediately adjacent to the tract on City of Springdale topographic mapping or approved equal.
- i. Location of all known existing sewers, water mains, culverts and underground utilities within the tract and immediately adjacent thereto; location of existing permanent buildings on or immediately adjacent to the site if right of entry can be obtained to locate same.
- j. Identification of rights-of-way or easements affecting the property.
- k. A plan of the site at a minimum scale of one (1) inch equals fifty (50) feet or less.
- l. Other information required including but not limited to:
  - i. Address and telephone number of ~~owner~~ operator, permit applicant and the party responsible for maintenance of erosion and sediment control measures.
  - ii. The approximate location and width of existing and proposed streets.
  - iii. The locations and dimensions of all proposed or existing lots.
  - iv. The locations and dimensions of all parcels of land proposed to be set aside for parks, playgrounds, natural condition perimeters, public use, or for the use of property owners in proposed development.
  - v. Existing and proposed topography at a maximum of two-foot contour intervals unless approved by the City.
  - vi. An approximate timing schedule, indicating the anticipated starting and completion dates of the development: a timing schedule for the sequence of grading and application of erosion and sediment control measures.
  - vii. Acreage of the proposed project.
  - viii. Identification of unusual material or soils in land areas to be disturbed. If any surface indications of unusual materials or soils that would cause street or lot instability, such as non-vertical tree growth, old slides, seepage, or depressions in the soil are visible before grading, they should be noted and accompanied by the engineer's recommendation for correcting such problem areas
  - ix. Identification of suitable material to be used for fills shall be accomplished before actual filling begins. If there are any surface indications that local material is not suitable for fills, those areas to be filled with outside material should be identified and the type and source of the fill noted.
  - x. Specification of measures to control runoff, erosion and sedimentation during the process of construction, noting those areas where control of runoff will be required during construction and indicating what will be used, such as straw bales (*allowed under limited circumstances*), silt fencing, sediment basins, silt dams, ~~brush rock or sand bag~~ check

- dams, lateral hillside ditches, catch basins, *waddles*, *curb inlet protection* etc.
- xi. Measures to protect neighboring built-up areas and city property during process of construction, noting work to be performed, such as cleaning existing ditches, storm culverts and catch basins or raising existing curbs in neighboring areas.
  - xii. Provisions to stabilize soils and slopes after completion of streets, sewers and other improvements, noting on the grading plan when and where ground cover will be planted, also noting any other means to be used such as placement of stone embankments and riprap or construction of retaining walls.
  - xiii. All *lot fill* areas shall be compacted to a *minimum* of 95% standard proctor density *in areas where buildings, pavement or other structures will be constructed as per the approved LSD or Subdivision construction drawings. Lot fill in areas where the approved LSD or Subdivision construction drawings has no structural requirements shall be compacted to a minimum of 75% and a maximum of 85% standard proctor densities to allow infiltration in vegetated areas.* ~~as required by the Springdale Code of Ordinances unless~~ Exceptions shall be approved in writing by the Director of Planning and Community Development or his/her assigns.
- m. The grading and drainage plan shall include areas of tree protection, erosion and sediment control provisions meeting standards established by the city in the Drainage Criteria Manual and the Best Management Practices Manual.

7. Issuance procedure.

- a. The following procedure shall be implemented for the issuance of a grading permit.
  - i. The Director of Planning and Community Development shall approve, disapprove or recommend modification of the grading and drainage plan in writing within ten working (10) days after the date of submittal.
  - ii. Upon approval of the final plan, the City shall issue a grading permit. A superintendent capable of understanding the plans and with the authority to issue orders to employees performing the land alteration shall properly supervise the land alteration work.
- b. Groups of trees and individual trees that are not to be removed and required as an undisturbed buffer area *shall be protected with high visibility construction fencing placed at the out limits of the critical root zone* ~~areas shall be protected~~ *during construction visible to workers on foot or operating equipment* and shall not be used for material storage or for any other purpose. The fencing shall be placed and maintained by the *operator* until all exterior construction,

~~except~~ landscaping, *and landscaping irrigation* has been completed. Individual trees to be preserved outside the undisturbed buffer protected area shall be fenced at the critical root zone and shall be flagged with bright orange vinyl tape wrapped around the main trunk at a height of four (4) feet or more such that the tape is clearly visible to workers on foot or operating equipment.

- c. The Director may allow minor modifications of the plan to alleviate particular problems during the process of construction. In reviewing request for modifications, the Director may require from the applicant's engineer appropriate reports and data sufficient to make a decision on the request.
- d. Major changes to plans approved by the planning commission shall only be permitted by the planning commission. Examples of major changes are those that substantially increase the height of cuts, the area of clearing or grading, or impact on neighboring properties. More than twenty percent (20%) increase in height, area or impact will normally be considered a major change. Examples of increased impact include reductions in buffer area, increased runoff onto adjacent properties and increased site area that is visible from adjacent properties or public streets.

8. Grading and drainage plan requirements. Preparation of grading and drainage plans shall follow the Drainage Criteria Manual and the Best Management Practices Manual and shall be designed on the basis of the following considerations:

- a. A maximum of thirty (30) vertical feet of fill or excavation (three, ten [10] feet vertical terraces or two, fifteen [15] feet vertical terraces) is permitted, however additional development areas may be constructed a minimum of one-hundred fifty (150) in width and at a slope of no more than eight percent (8%). The maximum of thirty (30) feet of fill or excavation may again be utilized.
  - i. The depth of fill or excavation shall be measured from the finish grade elevation to the original ground line elevation.
  - ii. No more than two hundred (200) feet of terrace can be in a straight line and a minimum of a ten (10) feet curved section, jog, or offset is required for each additional 200 feet of terrace.
  - iii. For excavations or fills constructed with slopes flatter than 3:1 (three horizontal to one vertical), terraces are not required nor is there a limit on the height of cut of fill. Planting requirements on these 3:1 slopes shall be the same as required for terraces and shall be spaced uniformly over the slope.
  - iv. Cuts or fills shall be limited to ten (10) feet in height or to fifteen (15) feet if architectural stone is included to protect the vertical face. A series of smaller cuts or fills with terraces, preserving portions of natural vegetation and providing areas for planting,

- shall be used in situations where more than ten (10) feet of cut or fill is needed.
- v. Terracing width shall be at a ratio of at least one (1) foot of horizontal terrace for every one (1) foot of vertical height, up to a maximum of ten (10) feet. Terraces shall be landscaped with dense evergreen plantings sufficient to screen the cut or fill slope.
  - vi. If the slope of the cut or fill is faced with an architectural stone wall, the terrace plantings shall be a minimum of two (2) rows of trees four (4) feet between the rows, staggered not more than twenty (20) feet on centers.
  - vii. Shrubs and ground cover shall be required as stated above and per Chapter 56 or latest revision.
- b. Development shall be planned to fit topography, soils, geology, hydrology, and other existing site conditions.
  - c. Provisions shall be made for safety against unstable slopes or slopes subject to erosion and deterioration.
  - d. Grading shall complement natural landforms.
  - e. After grading, all paving, seeding, *installed sodding*, or mulching shall be performed in accordance with a reasonable schedule approved by the Director.
  - f. Open areas not planned for immediate use shall be seeded or sodded. Soil which is exposed for more than twenty-one (21) days with no construction activity shall be seeded, mulched or re-vegetated in accordance with this code.
  - g. Areas not well suited to development, as evidenced by existing incompetent soils, geology, hydrology investigations and reports, should be allocated to open space and recreational uses.
  - h. The potential for soil loss shall be minimized by retaining natural vegetation wherever possible.
  - i. Appropriate provisions such as those in the Drainage Criteria Manual and the Best Management Practices Manual shall be used to accommodate stormwater runoff and control soil loss occasioned by changed soil and surface conditions during and after development, including the use of vegetation and limitations on soil exposure. If staff determines upon visual inspection that excessive silt from the construction has migrated offsite, additional measures to reduce erosion may be required.
  - j. Permanent improvements such as streets, storm sewers, curb and gutters and other features for control of storm runoff shall be scheduled as soon as economically and physically feasible before removing vegetation cover from the area, so that large areas are not left bare and exposed for long periods of time beyond the capacity of temporary control measures.
  - k. A temporary or permanent sediment basin, debris basin, de-silting basin or silt trap shall be installed and maintained to substantially reduce sediment from water runoff. A properly sized sediment basin is required for each separate drainage area within the



10. Conformance to NPDES Phase II Regulations. Grading plans shall conform to the *NPDES Phase II Stormwater Regulations* as established by ~~United States Environmental Protection Agency's regulations, Region VI published in the July 6, 1998 Federal Register or it's latest revisions.~~ *by the current ADEQ Construction Permit ARR 150000.*
11. Copies. A copy of the ADEQ NOI permit *or ADEQ Automatic Coverage permit shall be required for all sites one (1) acre or more.* ~~or a copy of the ADEQ Automatic Coverage permit shall be required for all smaller sites.~~
12. Fees. A fee for each grading permit shall be paid to the city as follows with the exception of traditional agricultural uses *and residential house sites less than 1 acre* for which the fee shall be waived:

|   |           |
|---|-----------|
| <i>Total Project Area being disturbed</i>     |           |
| <i>½ acre or greater but less than 1 acre</i> | \$ 250.00 |
| <i>1 acre or greater</i>                      | \$ 500.00 |

## **SECTION 107.4. ENFORCEMENT.**

**A. Enforcement Personnel Authorized.** The following personnel shall have the power to issue Notices of Violations, citations and implement other enforcement actions under this ordinance as provided by the City of Springdale:

1. All authorized personnel under the supervision of the Director of Planning and Community Development or other authorized City enforcement agencies.
2. All health officers that are authorized representatives of the Director of the Benton and Washington County Health Departments.

**B. Right of Entry and Sampling**

1. Whenever an authorized enforcement person has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this ordinance, the enforcement person shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this ordinance. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.
2. The Director shall have the right to cause to be set up on the property of any discharger to the storm drainage system such devices that are necessary to conduct sampling of discharges.

**C. Enforcement Procedures.** This policy establishes a formal enforcement procedure to be followed by the City of Springdale when enforcement action is necessary on sites that do not comply with the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance. Enforcement cases can be generated in any of three ways: (1) through the construction review process; (2) through complaints from individuals, groups, etc; and (3). through referrals from City/State agencies. Procedures to be followed for each of these methods are outlined below.

1. Construction Review. Every effort is made to use the Construction Review process to correct deficiencies in site compliance whenever possible. Should that process fail to achieve expected results or if the site reviewer feels that a violation is serious enough to warrant enforcement action, the following procedures shall be followed:
  - a. Issuance of Notice of Violation: If site deficiencies are noted, the ~~owner/developer~~ operator or authorized agent shall be given a notice of violation. The notice of violation shall be specific as to the noted violation, corrective measures to be taken, and a time frame allowed for completing the work.
  - b. Compliance Review: At the end of the time period specified above, a follow-up site inspection shall take place to determine whether compliance has been achieved. Depending on that determination, the following actions may occur:
    - i. Site Violations Corrected: If all previous site violations have been corrected, the site reviewer shall issue an inspection report stating that fact and the site shall be returned to a normal Construction Review status.
    - ii. Previous Violations Not Corrected: If previously noted violations have not been satisfactorily corrected, the further actions may be initiated as outlined in the following section.
2. Submissions from the General Public. Members of the General Public may submit information pertaining to this ordinance to the City of Springdale, Planning and Community Development Division. The Director will consider such submissions as they pertain to the implementation and enforcement of this ordinance and will provide written or verbal response to the person submitting the information. *Notifications of stormwater violations or potential violations can be submitted on the City website.*
3. Referrals from other agencies. Referrals from other agencies will be handled in the following manner:
  - a. Cases will be referred directly to the Director of Planning and Community Development. At this point the Director working with the referral agency will determine if enforcement actions are warranted and if proper documentation has been obtained. If a determination

is made that action is required, the enforcement process will be set into motion.

- b. Cases received by the Director will be handled on a first come, first served basis. All enforcement actions will be initiated by a site inspection to verify site conditions that caused the case to be referred. If conditions have been corrected or do not exist as stated in the referral, the case will be returned to file for documentation and reporting purposes. If conditions exist as stated in the referral, enforcement actions will proceed.
4. Once site conditions have been verified and the site is determined to be in a state of non-compliance two avenues of enforcement can be pursued, one for the infrequent offender and one for the frequent offender.
    - a. Infrequent Offender. If an individual or company is being reviewed for the first time or it has been at least 3 years since the last violation (36 months has elapsed since last review), notice to comply will be issued to the owner/developer informing them they are not in compliance with the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance, the steps needed to be taken to get into compliance, and that they have an established time frame to complete the work. At the end of the period a re-inspection will be conducted to check for compliance. If all work has been satisfactorily completed the case will be returned to file for documentation and reporting purposes. If the work has not been satisfactorily completed within the established time frame a citation (ticket) will be issued to the owner developer and for each subsequent day thereafter until the site is brought into compliance.
    - b. Frequent Offender. If an individual or company has been reviewed at any time in the preceding 36 months they will be considered repeat offenders. Repeat offenders will be issued a citation (ticket) upon verification of non-compliance with the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance and the steps needed to be taken to get into compliance will be outlined along with an established time frame to complete the work. At the end of the period a re-inspection will be conducted to check for compliance. If all work has been satisfactorily completed the case will be returned to file for documentation and reporting purposes. If the work has not been satisfactorily completed within the established time frame a citation (ticket) will be issued to the owner/developer and a fine may be levied for each day until the site is brought into compliance.

#### **D. Enforcement Options for Failure to Comply**

1. The City of Springdale Director of Planning and Community Development in conjunction with the *Chief Building Inspector* may issue a stop work order to any persons violating any provision of the City's Stormwater Pollution Prevention, Erosion Control, and Grading Ordinance by ordering that all site work stop except that necessary to comply with any administrative order.
2. The City of Springdale Planning and Community Development Director may request that the Buildings Department refrain from issuing any further building permits until outstanding violations have been remedied.
3. The City of Springdale Planning and Community Development Director may initiate penalties as stipulated herein. Complete information concerning enforcement and penalties is described below.

**E. Action without Prior Notice.** Any person who violates a prohibition or fails to meet a requirement of this Chapter will be subject, without prior notice, to one or more of the enforcement actions, when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or threatened discharge which presents or may present imminent danger to the environment, or to the health or welfare of persons, or to the storm drainage system.

#### **F. Enforcement Actions.**

1. **Recovery of Costs.** Within 30 days after abatement by City representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the City Council. The written protest must be received by the Mayor's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Council. The decision of the City Council shall be final. If the amount due is not paid within the protest period or within 10 days of the decision of the City Council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.
2. **Termination of Utility Services.** After lawful notice to the customer and property owner concerning the proposed disconnection, the Director shall have the authority to order the disconnection of City water, sanitary sewer and/or sanitation services until such time as the violation has been corrected.

3. **Performance Bonds.** Where necessary for the reasonable implementation of this Chapter, the Director may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Chapter. The City may deny approval of any building permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the City Council. The written protest must be received by the Mayor's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Council. The decision of the City Council shall be final.
4. **Criminal Prosecution.** Any person who violates or continues to violate a prohibition or requirement of this Chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.

**G. Criminal Penalties.** The violation of any provision of this ordinance shall be deemed a municipal offense. Any person violating this ordinance shall, upon an adjudication of guilt or a plea of no contest, be fined according to the schedule of fines. Each separate day on which a violation is committed or continues shall constitute a separate offense.

**H. Other Legal Action.** Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this ordinance, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in any court of competent jurisdiction. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

**I. Violations/Schedule of Fines.** A violation of any of the foregoing provisions shall be punished in accord with the following schedule of fines:

| Offense                        | Fine (per offense)                      |
|--------------------------------|---|
| First                          | \$ 500                                  |
| Second                         | \$ 1,000                                |
| Third                          | \$ 2,000                                |
| Fourth and subsequent offenses | \$ 4,000/day until offense is corrected |

## **SECTION 107.5. TERMINATION**

Upon completion of construction activities a Notice of Termination shall be filed with the Planning and Community Development Division indicating compliance with the provisions of this chapter.

## **SECTION 107.6. MAINTENANCE OF STORMWATER FACILITIES**

**A. Maintenance Responsibility.** Those stormwater management systems approved in compliance with this chapter that will function as an integral part of the system maintained by the city shall be dedicated to the City. All areas and/or structures to be dedicated to the City must be dedicated by plat or separate instrument and accepted by action of the City Council. All stormwater management systems accepted as dedications by the City shall be maintained by the City. All systems not dedicated to the City shall have adequate easements to permit the city to inspect and, if necessary, take corrective action should the responsible entity fail to properly maintain the system. Maintenance of all other stormwater management systems approved in compliance with this chapter shall be accomplished by the legal entity responsible for maintenance, which may include an approved entity as identified in the following:

1. Local government – a county, municipality, municipal service taxing unit, special district, or other appropriate governmental unit;
2. Special district – an active water control district, a drainage district, or a special assessment district;
3. State or federal agency – an appropriate state or federal agency;
4. Public entity – an officially franchised, licensed, or approved communication, water, sewer, electrical, stormwater, or other public utility;
5. Developer or property owner – a developer or property owner who provides a bond or other assurance of continued financial capability to operate and maintain stormwater management systems and who executes a legal maintenance agreement with the city; or
6. Property owner association – property owner associations able to comply with the following provisions:
  - a. The association provides a binding legal instrument through which it assumes full responsibility for stormwater management system operation and maintenance.
  - b. The association has sufficient powers to operate and maintain the system, establish rules, assess members, contract for services, exist perpetually and, if dissolved, to provide alternative operation and maintenance services.
  - c. The association can provide a bond or other assurances of financial capability to operate and maintain services.

- B. Inspection of Detention and Retention Systems.** All stormwater detention and retention facilities must be inspected annually by the responsible entity and/or by a licensed civil engineer to indicate that the facility is still in compliance with the originally approved design. A copy of this inspection shall be filed with the Planning and Community Development Division. Failure to inspect shall constitute a violation of this chapter. If the facility fails to perform per the original design specifications, then corrective action must be proposed, approved and completed within a time period to be specified. Failure to take corrective action within the specified time period is a violation of this chapter.

## **SECTION 107.7 NON-STORMWATER DISCHARGE**

- A. Purpose / Intent.** The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-stormwater discharges to the storm drainage system, waterway or any natural body of water to the maximum extent practical (MEP) as required by federal and state law. This Chapter establishes methods for controlling the introduction of pollutants into the City Storm Sewer System in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the storm sewer system by stormwater discharges by any user.
2. To prohibit illicit connections and discharges to the storm drain system, waterway or any natural body of water, and
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

**B. Applicability.**

This Chapter shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

**C. Responsibility For Administrations.**

The Director of Planning and Community Development shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the authorized enforcement agencies may be delegated by the Director to persons or entities acting in the beneficial interest of or in the employ of the Director.

**D. Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this Chapter does not intend nor imply that

compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

#### **E. Discharge Prohibitions.**

1. Prohibition of Illegal discharges. It shall be unlawful and punishable as provided herein for any person who discharges or causes to be discharged into the storm drainage system or watercourses any material, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the stormwater drain system is prohibited except as described as follows:
  - a) The following discharges are exempt from discharge prohibitions established by this Chapter:
    - 1) waterline flushing or other potable water (if de-chlorinated to less than 1 ppm chlorine), sources.
    - 2) landscape irrigation or lawn watering,
    - 3) diverted stream flows,
    - 4) rising ground water,
    - 5) ground water infiltration to storm drains,
    - 6) uncontaminated pumped ground water,
    - 7) uncontaminated foundation or footing drains (not including active groundwater dewatering systems),
    - 8) uncontaminated crawl space pumps,
    - 9) non-commercial washing of vehicles,
    - 10) air conditioning condensation,
    - 11) natural riparian habitat or wetland flow,
    - 12) swimming pools (if de-chlorinated to less than 1 ppm chlorine),
    - 13) fire fighting activities, and
    - 14) any other water source not containing pollutants *as approved by the Director or the Director's assigns.*

MS4 identifies them as significant contributors of pollutants to the small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from emergency fire fighting activities (by definition, not an illicit discharge).

- b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

- c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- d) The prohibition shall not apply to any non-stormwater discharge permitted under the NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all the regulations, and provided that written approval has been granted for any discharge to the stormwater drainage system.

2. Prohibition of Illicit Connections.

- a) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.
- b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- c) It is unlawful for any person to connect a line conveying sewage to the storm drainage system, or allows such a connection to continue.

**F. Suspension Of Storm Drainage System Access.**

- 1. Suspension due to Illicit Discharges in Emergency Situations. The authorized enforcement agency may, without prior notice, suspend discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system of the City. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the City's storm drainage system, or minimize danger to persons.

2. Suspension due to the detection of Illicit Discharge.

- a) Any person discharging to the storm drainage system in violation of this ordinance may have their storm drainage system access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its storm drainage access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- b) A person commits an offense if the person reinstates storm drainage system access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

### **G. Industrial or Construction Activity Discharges.**

Any person subject to an industrial or construction activity SWP3 or ECP Permit and/or NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized enforcement agency prior to the allowing of discharges to the storm drainage system.

### **H. Monitoring of Discharges.**

1. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
2. Access to facilities.
  - a) The authorized enforcement agency shall have the right to set up any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
  - b) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
  - c) The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
  - d) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
  - e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
  - f) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a stormwater discharge permit and of this section. A person who is the operator of a facility with a SWP3 or ECP and/or a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized by this Chapter.

- g) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

**I. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.**

The City's SWMP Ordinance outlines requirements identifying BMPs for activities, operations, or facilities which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the City. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drainage system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for the property or premise, which is, or maybe, the source of and illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the stormwater system. Compliance with all terms and conditions of a valid SWP3 or ECP Permit and/or NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable shall be deemed in compliance with the provisions of this section.

**J. Watercourse Protection.**

It is unlawful for any person owning property through which a watercourse passes, or such person's lessee, to not keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard flow of water through the watercourse. In addition, it is unlawful for the person owning or the lessee to not maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**K. Notification of Spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible person for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the City, said person shall take all necessary steps to

ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department of Planning and Community Development (201 Spring Street, Springdale, AR 72764) within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its reoccurrence. Such records shall be retained for at least three years.

#### **L. Enforcement.**

1. Notice of Violation. Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this section, the authorized enforcement agency may notice may require without limitation:
  - a. The performance of monitoring, analyses, and reporting;
  - b. The elimination of illicit connections or discharges;
  - c. That violating discharges, practices, or operations shall cease and desist;
  - d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
  - e. The implementation of source control or treatment BMPs.
2. Timeliness for remediation or restoration. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. Failure to correct a notice of violation is punishable under Section 1-9 of the Springdale Code of Ordinances.

#### **M. Appeal of Notice of Violation.**

Any person receiving a Notice of Violation may appeal the determination of the authorization enforcement agency to the Springdale City Council. A notice of appeal must be filed with the Springdale City Clerk's office within 10 days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

1. An application containing the applicants name, address and daytime phone number,

2. A statement describing the basis for the appeal; and
3. The relief sought by the applicant. The appeal shall be scheduled on the next available City Council meeting.

**N. Failure to Comply.**

In the event of failure to comply on the part of any person, firm, public utility, or corporation to comply fully within the provisions of this ordinance, any law enforcement or code authority of the City is authorized to:

1. Initiate criminal action by citation, or
  - a. Give written notice to such person, firm, public, or corporation to abate the violation an/or restore the property. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, or corporation by certified mail and posting a copy thereof on such installation for a period for seven days (7). If the violation is not abated or restored within 7 days after the notice is complete, said authorities may abate the same at the expense of the person, firm or corporation and recover costs and expenses, pursuant to Ark. Code Ann. §14-54-903.
2. If such person, firm, public utility, or corporation refuses to abate the violation and/or restore the property, said authorities may bring an action to abate the same as a nuisance as is allowed by the laws of the State of Arkansas.
3. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**O. Penalty.**

Any person who violates the provisions of this ordinance is punishable as provided in Section 1-9 of the Code of Ordinances of the City of Springdale, and each day that violation continues shall constitute a separate and punishable offense. Violators of this ordinance are also subject to any penalties that may be imposed by the State of Arkansas, the Federal Government, or the Clean Water Act.

**P. Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Q. Remedies not Exclusive.**

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the of the authorized enforcement agency to seek cumulative remedies.

**R. Severability.**

Should any section, paragraph, sentence, clause, or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said Chapter shall not be affected thereby.