

ORDINANCE NO. 48 OF 2019

**AN ORDINANCE ADOPTING THE STORMWATER DISCHARGE  
REGULATIONS FOR THE CITY OF BENTON, ARKANSAS;  
REPEALING ORDINANCE 2 OF 2006 AND ORDINANCE 24 OF 2009;  
DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

WHEREAS, the City Council of the City of Benton, Arkansas, adopted certain stormwater rules and regulations in Ordinance 2 of 2006 and in Ordinance 24 of 2009; and

WHEREAS, the City Council has found and determined that it should amend and restate these currently adopted rules and regulations; and

WHEREAS, the City Council has found that the stormwater discharge regulations which are attached hereto as Exhibit "1" are reasonable and necessary and should be adopted to govern stormwater within the City of Benton.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Benton, Arkansas, that:

SECTION 1. The document entitled "Stormwater Discharge Regulations for Benton, Arkansas," which is attached hereto and marked Exhibit "1" and is incorporated now by reference as if stated word for word is hereby adopted by the City Council as the rules and regulations governing stormwater within the City.

SECTION 2. The City Clerk shall maintain three copies of the ordinance and said Exhibit in the clerk's office to be examined by the public.

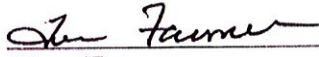
SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION 4. All City of Benton Ordinances, Resolutions, Regulations, and parts thereof, in conflict with the "Stormwater Discharge Regulations for Benton,


Arkansas," attached hereto and marked Exhibit "1" are hereby repealed to the extent of such conflict including Ordinance 2 of 2006 and Ordinance 24 of 2009.

SECTION 5. There is an immediate need to adopt the amended "Stormwater Discharge Regulations for Benton, Arkansas" in order to address flooding issues within the city. Therefore, an emergency exists, and this ordinance is necessary for the preservation of the public peace, health and safety. It shall be in full force and effect immediately from and after its passage and approval

PASSED and APPROVED this the 24 day of June, 2019.

  
\_\_\_\_\_  
Tom Farmer  
Mayor

Attest: -

  
\_\_\_\_\_  
Cindy Stracener  
City Clerk

DESIGNATED FOR PUBLICATION

**Exhibit "A" to City of Benton Ordinance 48 of 2019**

**STORMWATER DISCHARGE REGULATIONS**

**FOR**

**BENTON, ARKANSAS**

**STORMWATER DISCHARGE REGULATIONS**  
**FOR**  
**BENTON, ARKANSAS**

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# City of Benton

## STORMWATER DISCHARGE & MAINTENANCE REGULATIONS

### I. GENERAL PROVISIONS

#### A. Purposes

The purposes and objectives of these regulations are as follows:

1. To maintain and improve the quality of surface water and groundwater within the City of Benton, Arkansas, the Central Arkansas Region, and the State of Arkansas.
2. To prevent the discharge of contaminated storm water runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (**MS4**) and natural waters within the City of Benton, Arkansas.
3. To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers and natural waters of the City of Benton, Arkansas.
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 and operators of industrial and construction sites within the City of Benton, Arkansas.
6. To enable the City of Benton, Arkansas to comply with all federal and state laws and regulations applicable to storm water discharges.

#### B. Administration

Except as otherwise provided herein, the **Streets & Drainage Department (SDD) Head or City Engineer of the City of Benton, Arkansas** shall be considered the stormwater manager and administer, implement, and enforce the provisions of these regulations. Any powers granted to or duties imposed upon the **SDD/City Engineer** may be delegated by the **Mayor** to other City personnel. The reference herein to **SDD** and **City Engineer** are synonymous.

#### C. Abbreviations

The following abbreviations when used in these regulations shall have the designated meanings:

- |         |   |
|---------|---|
| • BMP   | Best Management Practices                       |
| • BTEX  | Benzene, Toluene, Ethylbenzene, and Xylene      |
| • CFR   | Code of Federal Regulations                     |
| • EPA   | U.S. Environmental Protection Agency            |
| • HHW   | Hazardous Household Waste                       |
| • mg/l  | Milligrams per liter                            |
| • MS4   | Municipal Separate Storm Sewer System           |
| • NOI   | Notice of Intent                                |
| • NOT   | Notice of Termination                           |
| • NPDES | National Pollutant Discharge Elimination System |
| • Ppb   | Parts per billion                               |
| • PST   | Petroleum Storage Tank                          |
| • RLA   | Registered Landscape Architect                  |

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- RPE Registered Professional Engineer
- RQ Reportable Quantity
- SWPPP - Storm Water Pollution Prevention Plan
- TPH Total Petroleum Hydrocarbons
- USC United States Code

**D. Definitions**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in these regulations, shall have the meanings hereinafter designated.

1. **Agricultural storm water runoff.** Any storm water runoff from orchards, cultivated crops, pastures, rangelands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.
2. **ADEQ.** Arkansas Department of Environmental Quality.
3. **Best management practices (BMP).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
4. **City.** The City of Benton, Arkansas.
5. **City Engineer.** The person appointed to the position of City Engineer by the *Mayor* of the City of Benton, Arkansas, or his/her duly authorized representative.
6. **Coal pile runoff.** The rainfall runoff from or through any coal storage pile.
7. **Commencement of construction.** The disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
8. **Commercial.** Pertaining to any business, trade, industry, or other activity engaged in for profit.
9. **Discharge.** Any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.
10. **Discharger.** Any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.
11. **Domestic sewage.** Human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.
12. **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 EPA or such successor agency.
13. **Extremely hazardous substance.** Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.
14. **Facility.** Any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.
15. **Fertilizer.** A solid or non solid 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. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.



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16. **Final stabilization.** The status when all soil disturbing activities at a site have been completed, and a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
17. **Fire Department.** The Fire Department of the City of Benton, Arkansas, or any duly authorized representative thereof.
18. **Fire protection water.** Any water, and any substances or materials contained therein, used by any person other than the Fire Department to control or extinguish a fire.
19. **Garbage.** 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.
20. **Harmful quantity.** The amount of any substance that will cause pollution of water in the State.
21. **Hazardous household waste (HHW).** Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.
22. **Hazardous substance.** Any substance listed in Table 302.4 of 40 CFR Part 302.
23. **Hazardous waste.** Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
24. **Hazardous waste treatment, disposal, and recovery facility.** All contiguous land, and structures, other appurtenances and improvements on the land, used for the treatment, disposal, or recovery of hazardous waste.
25. **Herbicide.** A substance or mixture of substances used to destroy a plant or to inhibit plant growth.
26. **Industrial waste.** Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.
27. **Motor vehicle fuel.** Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.
28. **Municipal landfill (or landfill).** An area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, an injection well, or a pile (as these terms are defined in regulations promulgated by the Arkansas Department of Environmental Quality).
29. **Municipal separate storm sewer system (MS4).** The system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.
30. **Municipal solid waste.** Solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.
31. **NPDES General Permit for Storm Water Discharges Associated with Industrial Activity (or Industrial General Permit).** The Industrial General Permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent modifications or amendments thereto.
32. **NPOES General Permit for Storm Water Discharges from Construction Sites (or Construction General Permit).** The Construction General Permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at



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- page 41217 on September 9, 1992, and any subsequent modifications or amendments thereto.
33. **NPOES permit.** A permit issued by EPA (or by the State under 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 on an individual, group, or general area-wide basis.
34. **Non-point source.** Any source of any discharge of a pollutant that is not a "point source."
35. **Notice of Intent (NOI).** The Notice of Intent that is required by either the Industrial General Permit or the Construction General Permit.
36. **Notice of Termination (NOT).** The Notice of Termination that is required by either the Industrial General Permit or the Construction General Permit.
37. **Oil.** Any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.
38. **Operator.** The person or persons who, either individually or taken together, meet the following two criteria: (1) they have operational control over the facility specifications (including the ability to make modifications in specifications); and (2) they have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.
39. **Owner.** The person who owns a facility or part of a facility.
40. **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. This definition includes all federal, state, and local governmental entities.
41. **Pesticide.** A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
42. **Petroleum product.** A petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol; other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and # 1 and #2 diesel. [The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.]
43. **Petroleum storage tank (PST).** Any one or combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.
44. **Point source.** Any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
45. **Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.
46. **Pollution.** The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.



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47. **Qualified personnel.** Persons who possess the appropriate competence, skills, and ability (as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.
48. **Landscape Architect (LA).** A person who has been duly licensed and registered to practice landscape architecture by the State of Arkansas.
49. **Professional Engineer (PE).** A person who has been duly licensed and registered by the Arkansas State Board of Registration for Professional Engineers and Land Surveyors to engage in the practice of engineering in the State of Arkansas.
50. **Release.** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.
51. **Reportable Quantity (RQ).** For any "hazardous substance," the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any "extremely hazardous substance," the quantity established in 40 CFR Part 355 and listed in Appendix A thereto.
52. **Rubbish.** Nonputrescible solid waste, excluding ashes that consist of (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).
53. **Sanitary sewer (or sewer).** 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 storm water, surface water, and groundwater are not intentionally admitted).
54. **Septic tank waste.** Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
55. **Service station.** Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.
56. **Sewage (or sanitary sewage).** 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.
57. **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.
58. **Solid waste.** Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.
59. **State.** The State of Arkansas.
60. **Storm water.** Storm water runoff, snow melt runoff, and surface runoff and drainage.
61. **Storm water discharge associated with industrial activity.** The discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is within one of the categories of facilities listed in 40 CFR § 122.26(b)(14), and which is not excluded from EPA's definition of the same term.
62. **Storm water pollution prevention plan (SWPPP).** A plan required by either the Construction General Permit or the Industrial General Permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction or other industrial activity at the facility.
63. **Uncontaminated.** Not containing a harmful quantity of any substance.



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64. **Used oil (or used motor oil).** Any oil that has been refined from crude oil or a synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with State and federal law.
65. **Water in the State (or water).** Any groundwater, percolating or otherwise, fakes, 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, fresh or salt, 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.
66. **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 the State to be necessary to protect those uses, as specified by the Arkansas Department of Environmental Quality.
67. **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 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 § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.
68. **Wetland.** An 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.
69. **Yard waste.** Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

**II. GENERAL PROHIBITION**

1. No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) of Benton, Arkansas any discharge that is not composed entirely of storm water.
2. It is an affirmative defense to any enforcement action for violation of Subsection A of this section that the discharge was composed entirely of one or more of the following categories of discharges:
- A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
  - A discharge or flow resulting from firefighting by the Fire Department;
  - A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials;
  - Agricultural storm water runoff;
  - A discharge or flow from water line flushing, but not including a discharge from water line disinfection by super chlorination or other means unless the total residual

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chlorine (TRC) has been reduced to less than one (1) mg/l and it contains no harmful quantity of chlorine or any other chemical used in line disinfection;

- A discharge or flow from lawn watering, landscape irrigation, or other irrigation water;
  - A discharge or flow from a diverted stream flow or natural spring;
  - A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
  - Uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
  - Uncontaminated discharge or flow from a foundation drain, crawl space pump, footing drain, or sump pump;
  - A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
  - A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
  - A discharge or flow from individual residential car washing;
  - A discharge or flow from a riparian habitat or wetland;
  - A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
  - Storm water runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
  - Swimming pool water (that has been dechlorinated so that total residual chlorine (TRC) is less than One (1) mg/l and that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.
3. No affirmative defense shall be available under Subsection B of this section if the discharge or flow in question has been determined by the City Engineer or SDD to be a source of a pollutant or pollutants to the waters of the United States or to the MS4, written notice of such determination has been provided to the discharger, and the discharge has occurred more than 15 days beyond such notice. The correctness of the SDD/City Engineer's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

**III. SPECIFIC PROHIBITIONS AND REQUIREMENTS**

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



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- B. No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- C. No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:
1. Any used motor oil, antifreeze, or any other motor vehicle fluid;
  2. Any industrial waste;
  3. Any hazardous waste, including hazardous household waste;
  4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
  5. Any garbage, rubbish, or yard waste;
  6. Any wastewater from a commercial carwash facility; from *any* vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than 2 such vehicles;
  7. Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
  8. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent or any other harmful cleaning substance;
  9. Any wastewater from commercial floor, rug, or carpet cleaning;
  10. Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
  11. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
  12. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or from the cleaning of commercial vehicles or equipment containing, or used *in* transporting or applying, such material;
  13. Any runoff or washdown water from any animal pen, kennel, or fowl or livestock containment area containing more than ten (10) animals;
  14. Any filter backwash from a swimming pool, fountain, or spa;



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15. Any swimming pool water containing total residual chlorine (TRC) of one (1) mg/l or more or containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
  16. Any discharge from water line disinfection by superchlorination or other means if the total residual chlorine (TRC) is at one (1) mg/l or more or if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;
  17. Any fire protection water containing oil or hazardous substances or materials that the Fire Code in these regulations requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from firefighting by the Fire Department.);
  18. Any water from a water curtain in a spray room used for painting vehicles or equipment;
  19. Any contaminated runoff from a vehicle wrecking yard;
  20. Any substance or material that will damage, block, or clog the MS4;
  21. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
    1. Compliance with all state and federal standards and requirements;
    2. No discharge containing a harmful quantity of any pollutant; [and]
    3. No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).
- D. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.
- E. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.
- F. No person shall cause or allow any pavement washwater from a service station to be discharged into the MS4 unless such washwater has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- G. Regulation of Pesticides, Herbicides, and Fertilizers.
1. Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; and any other state or federal requirement.

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2. Any license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer, transportation, storage, or disposal of a pesticide, herbicide or fertilizer must be presented to the City Engineer or his/her delegate and any city law enforcement officer for examination upon request.
  3. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.
  4. No person shall use or cause to be used any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
  5. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
  6. If provided with a display notice containing the provisions of this Subsection, pertaining to the regulation of pesticides, herbicides, and fertilizers (or a reasonable description thereof), and the information that any user of the product may obtain further information from the City Engineer, any person selling pesticides, herbicides, or fertilizers at retail or wholesale shall post the notice prominently where it may be read by purchasers of the product.
- H. Used Oil Regulation
1. No person shall:
    - (a) Discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course;
    - (b) Knowingly *mix* or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill;
    - (c) Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.
  2. All businesses that change motor oil for the public, municipal waste landfills, and fire stations are encouraged to serve as public used oil collection centers.
  3. A retail dealer who annually sells directly to the public more than ten (10) gallons of oil in containers for use off-premises shall post in a prominent place a sign informing the public that improper disposal of used oil is prohibited by law.
- I. No person shall allow the storage of toxic or hazardous substances on property that will allow exposure to precipitation and storm water runoff.



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**IV. Watercourse Protection & Maintenance Responsibility**

- A. Every person owning property through which a watercourse passes shall 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 the flow of water through the watercourse. The term "drainage system" means any watercourse, including any creek, branch, stream, brook, tributary, channel, open ditch or other such conveyance facilities, such as pipe, culverts, and arches, which transport storm water runoff.
- B. The owner shall maintain existing privately-owned structures within or adjacent to a watercourse or drainage system so that such structures continue to function as originally designed and will not become a hazard to the use, function, or physical integrity of the watercourse or to properties downstream.
- C. No new storm drainage facility(s) or changes to an established storm drainage facility (s) or watercourse or drainage system may be made, whether an enclosed structure, pipe, open channel, ditch, or stream, shall be constructed, altered, extended, or reconstructed within a parcel, subdivision, platted development, or any developed area, within or outside of a public right-of-way, whether public ownership or within a private easement, or discharging into, upon, or under a public right-of-way within the planning jurisdiction of the City of Benton, Arkansas, without first obtaining written approval of the City of Benton SDD/City Engineer. All such construction shall meet or exceed the requirements of the adopted drainage specifications. The SDD/City Engineer shall dictate if the addition, modification, expansion shall warrant the need for an Engineering Design be obtained and accompany the request for approval. The property owner will be responsible for the expense in acquiring the design and it shall meet all regulations. If any excavation, clearing, or fill, or any other site disturbance is planned and the parcel meets the requirements for a Grading permit, as noted in Ordinance 45 of 2007, then no work can commence until the permit is issued.
- D. The adopted drainage specifications are contained in the City of Little Rock Stormwater and Drainage Manual which has been adopted by the City of Benton via Ordinance 45 of 2007, and as may be amended from time to time. The drainage specifications shall be used in association with the adopted ordinances and regulations pertaining to: (1) subdivisions, site plans and commercial developments; (2) planning and zoning; (3) streets; and (4) the Flood Prevention Code. Where two or more of these regulations conflict, or where two or more sections of these drainage specifications conflict, the more restrictive specification shall govern.
- E. Any person, including but not limited to any builder, contractor, sub-contractor or property owner, who intentionally or through negligence restricts the free flow of storm water drainage, or any other drainage facility or allows/causes illicit discharges as described in these regulations shall be guilty of a misdemeanor. A Notice of Violation shall be issued by SDD and a corrective plan of action from the responsible party will be required in writing to the SDD within ten (10) days. All applicable enforcement actions and fines thereafter, will proceed according to Sections IX. -.XV. plus applicable court costs. A second or subsequent offense shall be punishable by a fine of triple the stated amounts per plus court costs.
- F. City crews may maintain only those drainage systems located on private property that have been individually and specifically accepted for perpetual maintenance by Ordinance of the City Council and for which easements have been obtained. Any such acceptance by the Benton City Council shall be contingent upon property owner compliance with this policy (e.g., provision of easement). In addition, the City reserves the right to require a maintenance bond for work performed and as a requirement in seeking the acceptance of the city to perpetually maintain the system defined.



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- G. For the City to Accept the perpetual responsibility for Maintenance, a drainage system must have a significant and consistent impact on public streets, roads, alleys, or public lands, or otherwise be directly related to the public storm water drainage system. The mere existence of a drainage system does not constitute a public impact qualifying it for such acceptance. The SDD/City Engineer or designee must endorse any action and it must be approved by the Streets & Drainage Committee and be further fully supported by the City Council.
- H. Any property owner(s) desiring that a drainage system on their property be accepted by City for repair or maintenance must submit a request, in writing, to the SDD/City Engineer. The request must state that the property owner will comply with this policy, including the provision of a maintenance easement if the drainage system is accepted by the Benton City Council. Upon receipt, the City Engineer shall evaluate the request, and if it is determined that the request meets the criteria for acceptance, the City Engineer shall prepare a report for presentation to the Streets & Drainage Committee and, if approved, for the City Council. The City Engineer's report shall confirm the nature of the private drainage system's impact upon the public storm water drainage system. Should the City Engineer determine that the request does not have a significant impact on the public storm water drainage system, the City Engineer shall so inform the property owner. The property owner may appeal the City Engineer's denial to the Streets & Drainage Committee. Requests may also be initiated by the City Engineer, in which case the City Engineer will obtain from the property owner(s) a statement indicating that the property owner(s) will grant the required easement if the drainage system is accepted by the City Council.
- I. Once a drainage system has been accepted for repair or for perpetual maintenance by ordinance of the Benton City Council, the SDD/City Engineer shall prepare documentation for the work associated with the drainage system to be ranked and prioritized by the Streets & Drainage Committee. The criteria as outlined in Section V. parts A and B shall be applied annually as a minimum and the ranking of projects established and endorsed by the committee. If warranted and as funding is available, the SDD/City Engineer shall prepare an easement for execution by the property owner. Such easement must provide permanent "free use" access in favor of the City. Easements obtained under these regulations shall state that the City is not responsible for removal or restoration of fences, grass, sod, shrubs, pavement, or other such improvements placed on the easement by the property owner. No buildings or other permanent structures of any kind or nature may be placed on the easement. Easements must have a minimum width of 20 feet with minimum setbacks of 5 feet on each side; however, the width may be increased if field conditions require additional width to effectively maintain the drainage system. The easement, or a series of easements in combination, must extend to an existing public right-of-way (e.g. street or alley) such that access to the drainage system can be gained without crossing private property. Temporary easements may be requested for ease of access during construction of the drainage systems. The permanent easement must be marked and otherwise tied to known references (e.g., property corners) such that it can be identified on site. Survey costs, if required to establish the easement, must be paid by the property owner(s) unless the request was initiated by the City Engineer, in which case the survey costs will be paid by the City. All permanent easements shall be filed with the City Clerk and recorded with the Saline County Circuit Clerk.
- J. The construction, improvement, and maintenance of accepted drainage systems on private property shall be subject to such financial resources as may be appropriated for such purposes annually by the Benton City Council. The City will not be responsible for any costs that may be aesthetic in nature and not directly related to the provision of effective storm water control. In this regard, the property owner(s) shall be solely responsible for any such aesthetic costs (e.g., rod covered head walls, landscaping, pipe to close ditches if not required by SDD/City Engineer, non-essential curbing, etc.). The Benton City Council reserves the right to waive any



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provisions of this process and its requirements in unusual, unique, and/or emergent circumstances when strict adherence would not be in the best interest of the public generally.

**V. Streets & Drainage Committee Project Ranking & Prioritization Process**

**A. Factors used in establishing project ranking:**

1. Threats to Life & Safety
2. Total Population affected
3. Frequency of Problem
4. Master Drainage Plan defined area of importance
5. Documented Damage (Public and/or Private)
6. Economic development impact
7. Condition of system
8. Leverage of funding (combine with other grant potential)
9. City's responsibility/obligation to correct problem
10. Number of years problem has existed
11. Identified Problems Areas immediately following smaller events (<25 yr event) or (> than 25 yr to 100 yr or more rain events)
12. Threats to Public Utilities, Streets, other Infrastructure
13. Environmental Threats including any related to Illicit Discharges
14. Departmental / Staff Recommendations
15. Completion of existing projects started

**B. Stormwater Project Funding Assessment Process:**

The above factors shall be considered in whole or part in defining specific projects to be addressed for available stormwater funding expenditure approval. The Streets and Drainage Committee will annually cause a review of the above factors against known problems and engage in an objective and pragmatic process to determine rankings by October 15<sup>th</sup> for new projects. The project ranking will be a tool to guide the discussions, for budgeting, grant development, and planning. Actual expenditures will be pragmatically reviewed by SDD on a regular basis and reported quarterly to the Committee or as necessary due to emergent situations. No new expenditures will be made unless the Committee has given approval, except for the case of an emergency. Emergency expenditures will be reported at the next Committee meeting following the emergency occurrence. Only those projects that have been studied and had a completed design and cost estimate, including easement and permit costs, will be considered for construction funding consideration. In planning for future new construction, if a study is approved, then it will not dictate that design or construction will be funded. Every project and associated expenditure will undergo the annual assessment for funding. In this context, it is desired that if a study is funded, then the design and construction will also be funded. The SSD/City Engineer and Streets and Drainage Committee reserves the right to adjust project ranking and priorities as necessary to address any unplanned expense for existing project work or as a result of any untoward event which may occur.

**VI. RELEASE REPORTING AND CLEANUP**

- A.** The person in charge of any facility, vehicle, or other source of *any* spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or *any* other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone and notify the Arkansas Department of Environmental Quality (501-682 0716) and the U.S. Environmental Protection Agency (800-424-8810) concerning the incident of:

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1. An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
  2. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
  3. An amount of oil that either (a) violates applicable water quality standards, or (b) causes a film or sheen upon or discoloration of the surface of the; or
  4. Any harmful quantity of any pollutant.
- B. The immediate notification required by Subsection A shall include the following information:
1. The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;
  2. The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;
  3. The time and duration (thus far) of the release;
  4. An estimate of the quantity and concentration (if known) of the substance released;
  5. The source of the release;
  6. Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
  7. Any precautions that should be taken as a result of the release;
  8. Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and
- C. The names and telephone numbers of the person or persons to be contacted for further information. Within fifteen (15) days following such release, the responsible person in charge of the facility, vehicle, or other source of the release shall, unless waived by the City Engineer, submit a written report containing each of the items of information specified above in paragraph 8, as well as the following additional information:
1. The ultimate duration, concentration, and quantity of the release;
  2. All actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;
  3. Any known or anticipated acute or chronic health risks associated with the release;
  4. Where appropriate, advice regarding medical attention necessary for exposed individuals;
  5. The identity of any governmental/private sector representatives responding to the release; and
  6. The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.



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- D. The notifications required by Subsections B and C above shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including *any* liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of *any* fine, penalty, or other liability which may be imposed pursuant to these regulations or to state or federal law.
- E. Any person responsible for any release as described in Subsection A above shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
- F. Any person responsible for a release described in Subsection A above shall reimburse the City for any cost incurred by the City in responding to the release.

**VII. STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES**

**A. General Requirements**

- 1. All operators of construction sites shall use best management practices to control and reduce the discharge, to the MS4 and to waters of the United States, of sediment, silt, earth, soil, and other material associated with the clearing, grading, excavation, and other construction activities to the maximum extent practicable. Such best management practices may include, but not be limited to, the following measures:
  - 1. Ensuring that existing vegetation is preserved where feasible and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures;
  - 2. Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from the *site* to the extent feasible;
  - 3. Minimization of the tracking of sediments off-site by vehicles, the generation of dust, and the escape of other windblown waste from the site;
  - 4. Prevention of the discharge of building materials, including cement, lime, concrete, and mortar, to the MS4 or waters of the United States;
  - 5. Providing general good housekeeping measures to prevent and contain spills of paints, solvents, fuels, septic waste, and other hazardous chemicals and pollutants associated with construction, and to assure proper cleanup and disposal of any such spills in compliance with state, federal, and local requirements;
  - 6. Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
  - 7. Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices in good and effective operating condition; and



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8. Installation of structural measures during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include, but not be limited to, the following: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on site; and sequential systems which combine several practices. Operators of construction sites are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with construction activity have terminated.
2. Qualified personnel provided by the operator of the construction site shall inspect disturbed areas of any construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater. All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, best management practices shall be revised as appropriate, and as soon as is practicable.
3. The SDD/City Engineer shall require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by paragraph VII.A.1 above that will be implemented at the construction site. The City may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other City approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the management practices described in the plans or observed upon a site inspection by the City Engineer are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation, and other construction activities to the maximum extent practicable.
4. Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in this Subsection VII.A.
5. Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure.

**B. Five-Acre or Greater Disturbances**

All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of five or more acres of total land area, or that are part of a common plan of development or sale within which five or more acres of total land area are disturbed, or who are required to obtain an NPDES permit for storm water discharges associated with construction activity, shall comply with the following requirements, in addition to those in Subsection VII.A.:



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1. The operator shall complete a "Medium Construction Site Notice" for sites that disturb five (5) to ten (10) acres and a "Large Construction Site Notice" for sites that disturb more than ten (10) acres. These forms are obtainable from the Arkansas Department of Environmental Quality (ADEQ) or the **SDD**. The operator must post such notice in a conspicuous location at the construction site prior to the start of construction. If the construction activity is already underway upon the effective date of these regulations, the notice shall be posted within thirty (30) days.
2. Any operator who intends to obtain coverage for storm water discharges from a construction site under the NPDES General Permit for Storm Water Discharges from Construction Sites ("the Construction General Permit") shall submit a signed copy of its Notice of Intent (NOI) to the City Engineer at least 2 days prior to the commencement of construction activities. If the construction activity is already underway upon the effective date of these regulations, the NOI shall be submitted within seven (7) days. For storm water discharges from construction sites where the operator changes, an NOI shall be submitted at least 2 days prior to when the operator commences work at the site.
3. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Construction General Permit or any individual or group NPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by or under these regulations and any city ordinance. A copy of the SWPPP shall be kept on-site in a weatherproof container.
4. On a site of more than five acres in total land area, the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer. The signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Construction General Permit, or with any applicable individual or group NPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by or under these regulations. The SWPPP shall contain the name, title, and business address of the Registered Professional Engineer signing it, and the date that he/she did so.
5. The SWPPP shall be completed prior to the submittal of the NOI to the City Engineer and, for new construction, two (2) weeks prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit and these regulations. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer.
6. A copy of any NOI that is required by paragraphs VII.B.1 – VII.B.3 shall be submitted to the **SDD** in conjunction with any application for a building permit, grading permit, subdivision plat approval, site development plan approval, and any other City approval necessary to commence or continue construction at the site.
7. Any operator who is required by paragraph VII.B.2 to prepare a SWPPP shall submit the SWPPP, and any modifications thereto, to the City Engineer for review prior to commencement of construction activities at the site.
8. Upon completion of the City Engineer's review of the SWPPP and any site inspection that he/she *may* conduct, the City may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other City approval necessary to commence or continue construction or to assume occupancy, on the grounds that the SWPPP does not comply with the requirements of the Construction General Permit, any individual or group NPDES permit issued for storm water discharge from the construction site, or any additional requirement



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imposed by or under these regulations. Also, if at any time the City Engineer determines that the SWPPP is not being fully implemented, the **SDD** may similarly deny approval of any building permit, grading permit, subdivision plat, site development plan or any other City approval necessary to commence or continue construction, or to assume occupancy, at the site.

9. Any modification to the SWPPP for a site of more than five acres of total land area shall be prepared, signed, and sealed by a Registered Professional Engineer as required for the original SWPPP by paragraph VII.B.3.
10. The **SDD** may notify the operator at any time that the SWPPP does not meet the requirements of the Construction General Permit, any applicable individual or group NPDES permit issued for storm water discharges from the construction site, or any additional requirement imposed by or under these regulations. Such notification shall identify those provisions of the permit or these regulations which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) days of such notification from the **SDD**, or as otherwise provided by the **SDD**, the operator shall make the required changes to the SWPPP and shall submit to the City Engineer a copy of the revised SWPPP.
11. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity. In addition, the SWPPP shall be amended to identify any new contractor and/or subcontractor that will implement a measure in the SWPPP.
12. Qualified personnel provided by the operator of the construction site shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within 24 hours of the end of the storm that is 0.5 inches or greater. Inspection forms approved by the SDD/City Engineer shall be kept onsite in a weatherproof container indicating the date, time and results of each inspection performed at each construction site. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.
13. Based on the results of the inspections required by paragraph VII.B.11, the site description and/or the pollution prevention measures identified in the SWPPP shall be revised as appropriate, but in no case later than seven calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven calendar days following the inspection.
14. A report summarizing the scope of any inspection required by paragraph VII.B.11, and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP,



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and actions taken in accordance with paragraph VII.B.12 above shall be made and retained as part of the SWPPP for at least one year from the date that the site is finally stabilized. Such report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the facility's NPDES permit, and these regulations. The report shall be certified and signed by the person responsible for making it.

15. The operator shall retain copies of any SWPPP and all reports required by these regulations or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least one year from the date that the site is finally stabilized.
16. Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by these regulations and by the NPDES permit for those construction activities are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the construction site shall submit to the **SDD** a Notice of Termination (NOT) that includes the information required for Notices of Termination by the Construction General Permit.
17. Upon final stabilization of the construction site, the owner or the duly authorized representative thereof shall submit written certification to the **SDD** that the site has been finally stabilized. (See definition of final stabilization in these regulations. The **SDD** may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the City Engineer has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

#### C. Less than Five Acre Disturbances

All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of less than five acres of total land area, shall comply with the following requirements in addition to those in Subsection VII.A.:

1. The operator shall complete a "Small Construction Site Notice" obtainable from the Arkansas Department of Environmental Quality (ADEQ) or the **SDD** and post such notice in a conspicuous location at the construction site prior to the start of construction. If the construction activity is already underway upon the effective date of these regulations, the notice shall be posted within thirty (30) days.
2. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Construction General Permit and with any additional requirement imposed by or under these regulations and any city ordinance. The SWPPP for a site less than five acres in area does not have to be completed by a Registered Professional Engineer. The SWPPP shall contain the name, title, and business address of its preparer. The SWPPP shall be submitted to the SDD/City Engineer upon request.
3. The SWPPP shall be completed prior to the start of construction and shall be updated and modified as appropriate and as required by the Construction General Permit and these regulations.
4. A copy of the Small Construction Site Notice and a copy of the SWPPP shall be submitted to the **SDD**. A copy of the SWPPP shall be kept on site in a weather-proof container.



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5. Qualified personnel provided by the operator of the construction site shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within 24 hours of the end of the storm that is 0.5 inches or greater. Inspection forms approved by the SDD/City Engineer shall be kept onsite in a weatherproof container indicating the date, time and results of each inspection performed at each construction site. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

**VIII. STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY**

- A All operators of (1) municipal landfills; (2) hazardous waste treatment, disposal, and recovery facilities; (3) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC§ 11023; and (4) industrial facilities that the SDD/City Engineer determines are contributing a substantial pollutant loading to the MS4, which are sources of storm water discharges associated with industrial activity, shall comply with the following requirements:
  1. Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the NPDES General Permit for Storm Water Discharges Associated With Industrial Activity ("the Industrial General Permit") shall submit a signed copy of its Notice of Intent (NOI) to the **SDD** at least 2 days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of these regulations, the NOI shall be submitted within seven (7) days. Where the operator of a facility with a storm water discharge associated with industrial activity which is covered by the Industrial General Permit changes, the new operator of the facility shall submit an NOI at least 2 days prior to the change.
  2. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under these regulations.
  3. The SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer. The signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Industrial General Permit, or with any applicable individual or group NPDES permit issued for storm water discharges from the industrial facility, and within any additional requirement imposed by or under these regulations. The SWPPP shall contain the name, title, and business address of the Registered Professional Engineer signing it, and the date that he/she did so.
  4. The SWPPP shall be completed prior to the submittal of the NOI to the **SDD** and, for a new industrial operation, prior to the commencement of the industrial activity at the facility. The SWPPP shall be updated and modified as appropriate and as required by the Industrial General Permit and these regulations. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer.



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5. A copy of any NOI that is required by paragraph VII.B.1-VII.B.3. shall be submitted to the **COD** in conjunction with any application for a permit or any other City approval necessary to commence or continue operation of the industrial facility.
6. Any operator who is required by paragraph VII.B.2 to prepare a SWPPP shall submit the SWPPP, and any modifications thereto, to the City Engineer for review prior to commencement of or during industrial activity at the facility.
7. Upon the City Engineer's review of the SWPPP and any site inspection that he/she may conduct, the **SDD** may deny approval of any application for a permit or any other City approval necessary to commence or continue operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the Industrial General Permit, any individual or group NPDES permit issued for storm water discharges from the industrial facility, or any additional requirement imposed by or under these regulations. Also, if at any time the City Engineer determines that the SWPPP is not being fully implemented, the **SDD** may similarly deny approval of any application for a permit or other City approval necessary to commence or continue operation of the industrial facility.
8. Any modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer, as required for the original SWPPP by paragraph VII.B.14
9. The SWPPP, with the Registered Professional Engineer's signature and seal affixed, and with any modifications attached, shall be retained at the industrial facility from the date of commencement of operations until all storm water discharges associated with industrial activity at the facility are eliminated and the required Notice of Termination (NOT) has been submitted.
10. The SDD/City Engineer may notify the operator at any time that the SWPPP does not meet the requirements of the Industrial General Permit, any applicable individual or group NPOES permit issued for storm water discharges from the industrial facility, or any additional requirement imposed by or under these regulations. Such notification shall identify those provisions of the permit or regulations which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within thirty (30) days of such notification from the City Engineer, or as otherwise provided by the City Engineer, the operator shall make the required changes to the SWPPP and shall submit to the City Engineer a written certification that the requested changes have been made.
11. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in storm water discharges associated with industrial activity.
12. Qualified personnel provided by the operator shall inspect equipment and areas of the facility specified in the SWPPP at appropriate intervals. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspection shall be maintained.
13. Qualified personnel provided by the operator shall conduct comprehensive site compliance evaluations as required by the Industrial General Permit at intervals of not less than once per year. Based on the results of the compliance evaluation, the description of potential pollutant sources and the pollution prevention measures and controls identified in the SWPPP shall be revised as appropriate within two weeks of



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such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve weeks after the compliance evaluation.

14. A report summarizing the scope of the comprehensive site compliance evaluation required, personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one year after all storm water discharges from the facility are eliminated and the required NOT has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the applicable NPDES permit, and these regulations. The report shall be signed by the individual responsible for the comprehensive site compliance evaluation, and it shall be submitted to the SDD/City Engineer within ten days of its completion.
15. If the industrial facility is required by the Industrial General Permit to conduct semi-annual monitoring, a signed copy of each semi-annual monitoring report shall be submitted to the SDD.
16. If the industrial facility is required by the Industrial General Permit to conduct annual monitoring, records of the monitoring results shall be retained at the facility and made available to the City Engineer upon request. If expressly required by the SDD, a written report of the annual monitoring shall be prepared and submitted to the City Engineer.
17. By written notice, the City Engineer may require any industrial facility identified in accordance with this Section VI to implement a monitoring program that includes the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility; oil and grease, COD, pH, BODS, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 C.F.R. 122.21(g)(7)(iii) and (iv). The City Engineer may require written reports of any such monitoring to be submitted to him/her.
18. By written notice, the SDD may require any industrial facility identified in this Section VI to conduct semi-annual or annual monitoring of storm water discharges, or the SDD may specify an alternative monitoring frequency and/or specify additional parameters to be analyzed. The City Engineer *may* require written reports of any such additional monitoring to be submitted to him/her.
19. The operator shall retain the SWPPP until at least one year after storm water discharges associated with industrial activity at the facility are eliminated, or that operator is no longer operating the facility, and a Notice of Termination (NOT) has been submitted. The operator shall retain all records of all monitoring information, copies of all required reports, and records of all data used to complete the NOI, until at least one year after all storm water discharges associated with industrial activity at the facility are eliminated, or the operator ceases to operate that facility, and the required Notice of Termination (NOT) has been submitted.
20. For discharges subject to the semi-annual or annual monitoring requirements of the Industrial General Permit, in addition to the records-retention requirements of the paragraph above, operators are required to retain for a six-year period from the date of sample collection, records of all monitoring information collected. Operators must submit such monitoring results, and/or a summary thereof, to the SDD upon request.