

ORDINANCE NO. 304-07

CITY OF LITTLE FLOCK, ARKANSAS

AN ORDINANCE ADOPTING BY REFERENCE STORMWATER POLLUTION PREVENTION AND EROSION CONTROL STANDARDS FOR THE CITY OF LITTLE FLOCK AND FOR OTHER PURPOSES.

WHEREAS, three copies of the Stormwater Pollution Prevention And Erosion Control Standards for the City of Little Flock have been available in the office of the Recorder/Treasurer of the City of Little Flock for inspection and viewing by the public prior to the passage of this Ordinance, and

WHEREAS, notice to the public has been published in The Morning News Of Northwest Arkansas, a newspaper of general circulation within the City of Little Flock, stating that copies of the Stormwater Pollution Prevention And Erosion Control Standards for the City of Little Flock were open to public examination.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLE FLOCK, ARKANSAS AS FOLLOWS:

1. Adoption. That pursuant to the authority of Arkansas Code Sec. 14-55-207, the Stormwater Pollution Prevention And Erosion Control Standards for the City of Little Flock are hereby adopted by reference.
2. Repealer. That the Stormwater Pollution Prevention And Erosion Control Standards shall prevail over all matters that are contrary in existing Ordinances of the City of Little Flock, Arkansas, and all Ordinances and parts of Ordinances that are in conflict with the Stormwater Pollution Prevention And Erosion Control Standards are hereby repealed.
3. Emergency. This Ordinance is necessary because of the requirements of state law; therefore, an emergency is hereby declared, and this Ordinance shall be in full force and effect from and after its passage and approval

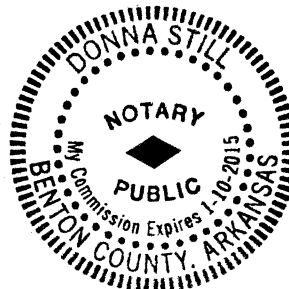
PASSED AND APPROVED this 14th day of May, 2007

CITY OF LITTLE FLOCK, ARKANSAS

By: 
DICK SCHOETTLE, Mayor

Attest:


DONNA STILL, Recorder/Treasurer



Benton County, AR
I certify this instrument was filed on
05/16/2007 3:46:35PM
and recorded in DEED Book
2007 at pages 0019864
Brenda Dashields-Circuit Clerk

Brenda Dashields-Circuit Clerk
Benton County, AR
Book/Pg: 2007/19864
Term/Cashier: CASH/KJACKSON
05/16/2007 3:46:35PM
Tran: 1950
Total Fees: \$8.00

Stormwater Pollution Prevention and Erosion Control

Section 100 General Provisions

(A) Purpose

The purpose and objectives of this Article are as follows:

1. To maintain or improve the quality of water impacted by the storm water runoff and drainage system within the City of Little Flock.
2. To prevent the discharge of contaminated stormwater runoff from construction sites and illicit discharges from industrial, commercial, and residential areas into the storm drainage system and the drainage basins within the City of Little Flock.
3. To promote public awareness of the implications of 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 basins.
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
5. To encourage, facilitate and enforce compliance with state and federal standards and National Pollutant Discharge Elimination System (NPDES) permits issued by Arkansas Department of Environmental Quality (ADEQ) to responsible parties of construction sites within the City.
6. To facilitate and enable City compliance with all federal and state laws and regulations applicable to the NPDES permitting requirements for stormwater discharges.

(B) Responsibility of Administration

The City Official shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the City Official may be delegated in writing by the City Official to persons or entities acting in the beneficial interest of or in the employ of the City.

(C) Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ADEQ: Arkansas Department of Environmental Quality.

Best Management Practices (BMP's): a technique or series of techniques which, when used in an erosion control plan, is proven to be effective in controlling construction-related runoff, erosion and sedimentation.

City: City of Little Flock, Arkansas

City Official: the Mayor of Little Flock, Arkansas, or duly authorized representatives designated by the Mayor.

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 activity.

Construction Site: any location where construction activity occurs.

Contaminated: containing harmful quantities of pollutants.

Contractor: any person or firm performing or managing construction activity, 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.

Discharge: the release of storm water, trash, pollutants, or any other substance whatsoever into the storm drainage basins or system.

Discharger: any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any property owner, developer, contractor or sub-contractor on a construction site, or commercial or industrial facility.

Domestic Sewage: sewage origination primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage disposal, toilets, baths, showers and sinks.

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

EPA: Environmental Protection Agency.

Erosion: the wearing away of the ground surface as a result of the movement of wind, water and/or ice.

Excavation: any activity that removes or disturbs the existing vegetation.

Garbage: decaying or rotting 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.

Grading: excavation or any land disturbance or land fill, or combination thereof.

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 City Official determines will cause an adverse impact to storm drainage system or will contribute to the failure of the City to meet the water quality requirements of the NPDES permit for discharges from the MS4.

Hazardous Substance: any substance identified or listed as a hazardous waste by the EPA pursuant to current regulations.

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.

Illicit Discharge: any discharge to the storm drainage system or drainage basins other than natural rain fall events. Also includes storm water released from construction sites without proper approvals and permits or with permits but without proper sediment controls, or failing sediment controls.

Illicit Connection: any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.

Industrial Waste: (or commercial waste) any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.

Land Alteration: the process of grading, clearing, filling, excavating, quarrying, tunneling, trenching, construction or similar activities.

Mechanical Fluid: any fluid used in the operation and maintenance of machinery, vehicles and any other equipment, including lubricants, antifreeze, oils, petroleum products, 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, for commercial purposes or related to a commercial activity. Including construction equipment.

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 collection or conveying stormwater, and not used for collecting or conveying sanitary sewage.

Non-stormwater discharges: septic systems, sanitary sewers and others; industrial NPDES discharges, urban return flows, water diversions, runoff from confined animal feeding lots.

NPDES: National Pollutant Discharge Elimination System.

NPDES Permit: a permit issued by EPA and or ADEQ 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.

NOI (Notice of Intent): a form requesting a NPDES Permit to release storm water.

NOT (Notice of Termination): a form to request termination of a NPDES Permit.

Notice of Violation: a written notice detailing any violations of this Article 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.

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.

Permittee: the applicant in whose name a valid permit is duly issued pursuant to this article and his/her agents, employees and others acting under his/her supervision or control.

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

Pet 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, greases, 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: 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.

Private Drainage System: all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that 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.

Public Improvement Plans: engineering drawings subject to approval by the City Official for the construction of public improvements.

Qualified Person: a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.

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

Rubbish: non-putrescible 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: the domestic sewage and/or industrial waste that are discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Sanitary 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 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: 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: all surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.

Stormwater: runoff resulting from precipitation.

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: 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, and 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 to 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 water 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.

Wetlands: an area that is regularly saturated by surface or groundwater and subsequently is characterized by a prevalence of vegetation that is adapted for life in saturated soil conditions. Examples include: swamps, bogs, fens, marshes, and estuaries.

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

(D) Abbreviations. The following abbreviations when used in this Article 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
NOI—Notice of Intent
NOT—Notice of Termination
MS4—Municipal Separate Storm Sewer System
NPDES—National Pollutant Discharge Elimination System
SWP3—Stormwater Pollution Prevention Plan

Section 200 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, except as allowed herein. Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, and wastewater, and 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 or the non-commercial washing of vehicles by charitable organizations.
5. Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
6. Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs;
7. Diverted stream flows and natural riparian habitat or wetland flows;
8. 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.
4. Maintenance of Equipment. 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. 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 hazardous substances is prohibited.
6. Pesticides, Herbicides and Fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
7. 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.
8. 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 City Official no later than 3:30 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 BMP's are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMP's at their own expense.

Section 300 Stormwater Discharges From Construction Activities

(A) All ADEQ regulations and NPDES permit requirements must be met and site postings available on site at all times.

(B) General Requirements for Construction Sites.

1. Responsibility: The owner/developer shall be responsible for compliance with the requirements of this ordinance, as well as all State and Federal regulations.
2. Waste Disposal: Solid waste, industrial waste, yard waste and any other pollutants 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 or contractor on site where there is the potential for trash or waste accumulation. Uncontained trash or waste that may blow, wash or otherwise be released from the site is prohibited. This includes, but is not limited to, construction wrapping and banding material, equipment maintenance containers and wrapping material, construction crew trash, including food containers, cups, cans, bottles, etc.
3. Concrete Waste: any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete shall be contained on construction sites 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 construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and

- construction site entrances shall be maintained to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
5. Completion: Upon completion of permitted construction activity on any site, the property owner and subsequent property owners 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) Requirements for Utility Construction.

In construction areas where a NPDES permit is already established the utility agency shall:

1. be responsible for compliance with the requirements of this ordinance.
2. shall develop and implement Best Management Practices (BMP's) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMP's on utility construction activity.
3. remove excessive sediment tracked onto public streets, immediately.
4. leave the site in a finished appearance with all disturbed areas smooth and covered with seed and mulch or sod as necessary to stabilize the area.

(B1) Requirements for Utility Construction

In cases where there is no NPDES permit established the utility agency shall be responsible for compliance with the requirements of this ordinance, for ADEQ regulation adherence and the use of Best Management Practices to prevent siltation and erosion from taking place along the line of utility construction activity.

(C) Grading Permit

With this ordinance a grading permit process is established for all development, clearing, grubbing and construction activity within the City of Little Flock.

1. Purpose—The purpose of this chapter is to:
 - a. Not prevent the reasonable use of private properties/
 - b. Discourage the indiscriminate clearing of property.
 - c. Discourage excessive grading, clearing, filling, cutting, or similar activities.
 - d. Help prevent or reduce flooding, erosion and sediment damage within the city and downstream properties that lie in the water shed of Little Flock.
 - e. To safeguard the beauty of our city and the safety and welfare of citizens.
 - f. Establish reasonable standards and procedures for development.
 - g. Prevent the pollution of streams, ponds and other watercourses.
 - h. Minimize the danger of flood loss and property loss due to unstable slopes.
 - i. Preserve natural vegetation, which enhances the quality of life in the community.
 - j. To establish a tracking system for compliance with ADEQ MS4 regulations.

2. General requirements
 - a. Persons within the limits of the City of Little Flock, who intend to develop property or construct buildings that require approval from the Little Flock Planning Commission, shall, after approval of the Planning Commission and after submitting and obtaining the proper permits from ADEQ, obtain a grading permit from the city offices prior to starting any earth work activity. Also, any land owner who intends to alter their property by clearing, stripping or grading activities shall obtain the required ADEQ permits and approvals, then request, from the City, a grading permit prior to any site activity.
 - b. Any person who engages in land alteration activities regulated by this chapter without obtaining a grading permit shall be in violation of this ordinance and subject to legal recourse as explained later in this ordinance and may be required to restore the land, to the maximum extent practicable to its original condition.
 - c. The permit applicant or his designated representative shall be capable of reading and understanding the plans, specifications and requirements for the type of activity being performed and in installation and maintenance of BMP's for storm water control.
 - d. If the required permits are not posted on the site and if the erosion control measures are not installed, or are installed inadequately, the city official may issue a notice of violation and request immediate correction. If immediate correction is not made a Stop Work order may be issued until all corrections are made.
3. 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 City Official or his/her assigns for a grading permit as specified in this chapter before construction begins. The City Official 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.
4. Conformance to Phase II Regulations. Grading plans shall conform to the 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 its latest revisions.
5. The City Official and City Council shall set and regulate the fee for said grading permits.

SECTION 400 Enforcement Personnel Authorized

(A) The City Official or his designee shall have the power to issue Notices of Violations, citations and implement other enforcement actions under this ordinance as provided by the City of Little Flock.

(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, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.
2. The City Official, or his or her assigns, 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 Little Flock when enforcement action is necessary on sites that do not comply with the City's Stormwater Pollution Prevention, Erosion Control Ordinance. Enforcement cases can be generated in any of three ways:

- (1) through complaints from individuals, groups, etc;
- (2) through the construction review process and
- (3) through referrals from City/State agencies.

Procedures to be followed for each of these methods are outlined below.

1. Submissions from the General Public. Members of the General Public may submit information pertaining to this ordinance to the City of Little Flock. The City Official 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.
2. 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 the site reviewer feels that a violation is serious enough to warrant enforcement action, the following procedures shall be followed:
 - a. Verbal notice shall be issued with discussion as to the nature of the violation and a compliance resolution.
 - b. If site deficiencies are not immediately corrected a written Notice of Violation may be issued. The Permittee or their on-site representative shall be given the notice. The notice shall be specific as to the violation and the corrective action to be taken, as well as a time frame allowed for completing the work.
 - c. Compliance Review: At the end of the time period specified, a follow-up site inspection shall take place.

d. If compliance is still not satisfactory, a stop work order may be issued until compliance has been achieved.

If site violations are corrected, the site reviewer shall issue an inspection report stating that fact and the site shall be returned to a normal Construction Review status. If previously noted violations have not been satisfactorily corrected, further actions may be initiated as outlined in the following section.

3. Referrals from other agencies. Referrals from other agencies will be handled in the following manner:

a. Cases will be referred directly to the City Official. At this point the City Official 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 aforementioned enforcement process will be set into motion.

b. Cases received by the City Official 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.

D. Enforcement Options for Failure to Comply Notice

1. If the above procedure has been followed and there is a total failure to comply by the owner/developer and/or contractor, the City of Little Flock may issue a Failure to Comply Notice.

a. The City Official has primary responsibility for the administration and enforcement of this Notice.

b. Representatives of the City Official and Code Enforcement Officers may serve as the City's designee, with full authority to enforce all municipal infraction provisions of this Chapter.

c. In addition to the aforementioned course of action, all other means of enforcement provided for by law shall be at the disposal of the City to enforce this ordinance in the case of a total failure to comply.

d. Any person, or firm, who fails to comply with the stop work order may be removed from the site by law enforcement.

e. A person who receives a stop work order may appeal the issuance of the stop work order to the City Council within 5 days of the issuance of the order.

f. If there has not been an appeal of the Stop Work Order made to the City Council within the designated 5 days of issuance and no reasonable attempt has been made to rectify the violation within 10 days of issuance of the stop work order, the City Official may at his/her discretion impose a fine in accordance with the schedule of fines found in Item 'H' of this Section 400.

2. City of Little Flock may initiate penalties as stipulated herein. Complete information concerning enforcement and penalties is described below.
3. Appeal Process for Stop Work Order.
 - a. Any violation notice issued pursuant to this chapter may be appealed in writing to the City Council within 5 days of the date of the violation notice.
 - b. Any party aggrieved by the decision of the City Official denying a waiver or a variance of the requirements of this chapter may appeal such decision to the City Council, in writing, within 5 days of the date of the written denial.
 - c. An appeal to the City Council pursuant to this section is a prerequisite to any court action by the aggrieved party.

(E) Action without Prior Notice. Any person who violated 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) Criminal Penalties. The violation of any provision of this ordinance shall be deemed a municipal offense. Any person in violation of 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.

(G) 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, an Attorney, acting on behalf of the City may commence an action for appropriate legal and equitable relief including damages and costs in any court of competent jurisdiction. The Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

(H) Violations/Schedule of Fines. A violation of any of the foregoing provisions shall be punishable in accordance with the following schedule of fines:

<u>Offense</u>	<u>Fine (per offense/day)</u>
First	\$ 500
Second	\$1,000
Third	\$2,000
Fourth and subsequent offenses	\$4,000

SECTION 500 Termination

(A) Upon completion of construction activities and all disturbed areas have been reestablished with adequate ground cover, a Notice of Termination shall be filed with ADEQ and a copy of the termination acceptance letter from ADEQ shall be submitted to the City Official.

SECTION 600 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. 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.