

What is TMC Chapter 13.40?

TMC Chapter 13.40 is a new code chapter being proposed by Topeka Utilities to regulate the maintenance of stormwater best management practices (BMPs) that are located on private properties. BMPs are stormwater quality treatment practices and flood protection controls (i.e., detention and retention basins). The regulation of stormwater BMP maintenance is required by the Kansas Department of Health and Environment (KDHE) in Topeka's municipal stormwater permit. This permit is sometimes called the *MS4 Permit*. BMP design and construction is addressed in TMC Chapter 13.35.

If Topeka already regulates BMP design & construction, why do we need new code?

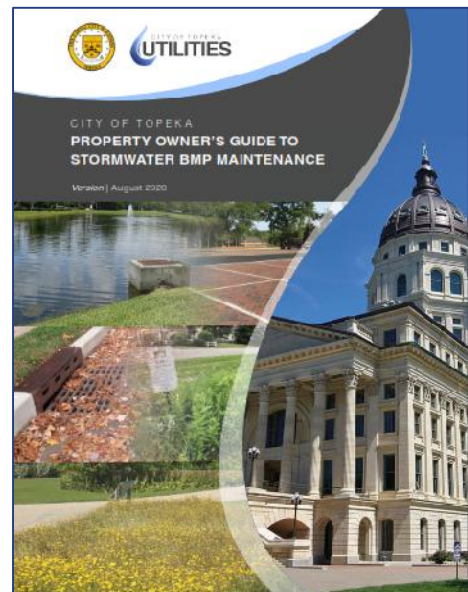
The table below explains the differences between TMC Chapter 13.35 and proposed TMC Chapter 13.40.

	TMC Chapter 13.35	TMC Chapter 13.40 (new)
Purpose	Regulate the design and construction of stormwater quality and quantity BMPs	Regulate the long-term maintenance of stormwater quality and quantity BMPs
Applies to	Properties over specific size thresholds that are being developed	Properties that have stormwater quality and/or quantity BMPs already constructed
Primary audience	Land developers and land development designers	Property owners
Basic Requirement	Design and construct stormwater BMPs in accordance with City of Topeka requirements	Maintain BMPs in accordance with City requirements to ensure their proper function.

Because TMC Chapter 13.35 regulates BMP design and construction on properties undergoing development, it is unsuitable for the regulation of stormwater BMP maintenance at properties that are developed (i.e., design and construction activities are finished).

Since Topeka already regulates stormwater BMPs, what is changing?

Currently Topeka's code places the responsibility for long-term maintenance of stormwater BMPs on the owner of the property where the BMPs are located. This requirement is not proposed to change. We are simply moving this requirement from TMC Chapter 13.35 to TMC Chapter 13.40. However, the proposed new code expands upon this basic requirement by establishing minimum standards for maintenance, setting rules for owner-led inspections of BMPs, and placing restrictions on BMP areas to avoid damage and improper function. To help owners understand and implement these requirements, Chapter 13.40 is supported by an informative guidance document called the *City of Topeka Property Owner's Guide to BMP Maintenance*. The cover of the Maintenance Guide is shown on the right. The table on the next page highlights the main requirements of TMC Chapter 13.40 and the supporting information provided in the Maintenance Guide.



	TMC Chapter 13.40 <i>(Each requirement refers to the Maintenance Guide as the standard method for compliance)</i>	Maintenance Guide <i>(The supporting information described below is given for each type of BMP allowed in Topeka)</i>
How to maintain	Property owners must protect and maintain BMPs to ensure their proper function as shown in the as-built plan <i>(this plan is required by the proposed revisions to TMC Chapter 13.35)</i>	Specific maintenance actions are explained in detail. Pictures of good maintenance and unmaintained BMPs are provided.
When to maintain	BMPs must be maintained in perpetuity	General maintenance schedules are provided for each BMP and general BMP components
How to inspect	Inspections are required in order to determine when and what maintenance is needed	Specific inspection actions are explained in detail and by inspection type. Pictures of BMP components are provided.
When to inspect	<ul style="list-style-type: none"> ✓ Routine inspections as needed ✓ 2-year inspections <i>(must be documented)</i> ✓ 6-year inspections <i>(must be performed and documented by registered prof. engineer or landscape architect)</i> <p>Documentation of 2- and 6-year inspections must be retained by the owner. The City may request and review them.</p>	General schedule information is provided by BMP and, to some degree, by component. Inspection checklists with explanatory information is provided for the two and six-year inspections. These can also be used for routine inspections at the discretion of the maintainer.
What NOT to do	Specific uses and activities that can damage BMPs or introduce pollutants into the BMP are identified and prohibited. <i>(Examples: storage of motor vehicles or wastes; gardening or crops, livestock holding area; kennels, trash dump areas)</i>	Refers to Chapter 13.40

Why does Topeka need to improve its stormwater BMP maintenance requirements?

Topeka's MS4 permit requires the City to ensure the long-term operation and maintenance of stormwater quality BMPs. It is common for municipalities to adhere to this requirement by placing the responsibility for BMP maintenance on property owners. As a result, effective compliance with the permit condition typically includes municipal regulatory authority (City code), administrative processes (maintenance and inspection oversight by City staff), and educational support tools (maintenance and inspection guidance for BMP owners). Beyond the permit however, many cities are experiencing increased pressure on their stormwater level-of-service as a result of aging, unmaintained private infrastructure. Today, it is not uncommon for an old, overgrown detention basin to become an eyesore (at best) or a flooding problem (at worst). The improvements to Topeka's stormwater BMP maintenance code can help such issues from happening on BMPs constructed after adoption of the ordinance.

Were stakeholders involved in the development of the code?

Yes. A meeting in December 2019 educated stakeholders on the new requirements. Numerous listening sessions occurred in the months that followed to gather stakeholder comments. Changes to the proposed code were made based on the comments. An additional workshop was held in August 2020.

Will property owners be educated on the maintenance requirements?

Yes. Topeka Utilities plans to provide virtual education on both TMC Chapter 13.40 and the Maintenance Guide after adoption of the revised code.