

PART 17

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CHAPTER 1

WATER SYSTEM AND SEWER SYSTEM

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§ 17-101 LEASE OF SYSTEM.

The city has leased its water and sewer system to the Choctaw Utilities Authority, a public trust. The trust has power to set water and sewer rates and otherwise to regulate the water and sewer systems. The motions and resolutions adopted by the trust replace ordinances of the city relating to these matters. For the motions and resolutions passed by the public trust, please refer to the minutes of the meetings of the Choctaw Utilities Authority. A copy of the trust indenture relating to the leasing of these systems appears in this code in the appendix.

§ 17-102 PRIVATE SEWER SYSTEMS.

- A. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage. Where a public sanitary sewer is not available under the provisions of this article, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
- B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the building official. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the building inspector. The permit application shall be accompanied by a fee as set out in the City's fee schedule. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the building official. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the building official when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours, excluding weekends and legal holidays, of the receipt of notice by the building official.
- C. The type, capacity, location and layout of a private sewage disposal system shall comply with all recommendations of the department of public health of the state. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- D. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.
- E. At such time as a private sewage system requires replacement or construction of new lateral lines and a public sewer is available to a property served by said private sewage disposal system, a direct connection shall be made to the public sewer in compliance with

this division, and any septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of sludge and filled with clean bankrun gravel or dirt, at the property owner's expense. (Ord. No. 711, 5/6/14)

CHAPTER 2

REFUSE AND SOLID WASTE

ARTICLE A

SOLID WASTE COLLECTION

§ 17-201	Definitions.
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Ed. Note: This article became effective September 1, 1992.

§ 17-201 DEFINITIONS.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them in this article:

- A. “Contractor” means any individual, firm, corporation, company, partnership, association, or trust who agrees to furnish all necessary materials and perform services for solid waste collection under the specified terms with the city;
- B. “Dwelling” means a permanently-constructed, habitable structure designed and constructed for full-time occupancy in all weather conditions, which is not readily mobile and shall include but not limited to a manufactured home, commercial and industrial establishments;
- C. “Permittee” means any individual, firm, corporation, company, partnership, association or trust who agrees to furnish all necessary materials and perform services for solid waste collection under permit issued by the city;
- D. “Person” means any individual, firm, corporation, company, partnership, association, trust and includes but is not limited to any owner, occupant, tenant or lessee; and

- E. "Solid waste" means all putrescible and non-putrescible refuse in solid or semisolid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial wastes and hazardous wastes, chemical wastes, herbicide and pesticide wastes. Scrap materials which are source separated for collection and processing as industrial raw materials shall not be considered discarded for the purposes of this article, except when contained in the waste collected by or in behalf of the city. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-202 SOLID WASTE CONTAINERS TO BE PROVIDED.

Every person using and occupying a dwelling, within the corporate limits of the city, shall be provided and use solid waste containers and receptacles for solid waste, the containers and receptacles to be of the kind and character hereinafter specified or furnished by the permittee. Each owner, occupant or lessee shall place the containers and receptacles and maintain them at the place or places specified in § 17-203. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-203 CONTAINER REQUIRED; DUTY TO USE.

- A. Persons owning or occupying all premises in the city receiving solid waste service under contract are hereby required to place all solid waste in a ninety (90) gallon roll-a-way cart, furnished by the contractor, and shall be placed at the curbside on the designated day for the collection of residential waste.
- B. When a residential customer finds it necessary to dispose of additional solid waste, all such solid waste shall be emptied at no additional cost to the resident provided the refuse is placed in disposable containers or tied in bundles not longer than four (4) feet in length and weighing no more than fifty (50) pounds each, and the same is placed at the street curb by the resident on the pick-up date.
- C. Each residential cart, bag or bundle shall be placed at the curbside for collection. Curbside refers to that area within four (4) feet of the curblines of the street or public roadside from which a residence, property or institution is serviced. Carts, bags and bundles shall be placed as close to the curbside/roadway as practical without interfering with or endangering the movements of vehicles or pedestrians. When construction work is being performed in the right-of-way, carts, bags and bundles shall be placed as close as practical to reasonably convenient access points for the collection vehicle on a collection day. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-204 MANURE, DEAD ANIMALS, TO BE DISPOSED OF BY OWNER.

- A. Manure from private stables or offal or refuse from animals, or night soil and dead animals, and all other waste not herein mentioned, must be kept in a separate suitable receptacle and not dumped in the alleys or retained on the premises and become a nuisance. The same shall be disposed of by the owner.
- B. The city shall enforce this section as provided by ordinances declaring such to be a

nuisance under the health laws of this city and state. It is the duty of the city manager or his designee, director of the cooperative health department, or the employee of the city to whom the city manager may assign his duties, to see that the removal is promptly made when so ordered. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-205 SOLID WASTE DEPARTMENT OR CONTRACT AUTHORIZED.

- A. The city may create a solid waste department and hire sufficient help to operate the department and purchase any equipment necessary to properly conduct the department. The city may enter into a contract with some suitable person, or persons, firm, or corporation, for removal and disposal of the garbage and refuse provide, the contractor or permittee shall furnish a good and sufficient surety bond conditioned for the faithful performance of the contract and all the requirements of this article and contract terms.
- B. In case of conflict with any provision of this code, the contract with an independent contractor shall take precedence over the conflicting provision of this code. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-206 CONTRACTOR OR PERMITTEE TO PROVIDE EQUIPMENT.

- A. Any contractor or permittee shall provide all materials, equipment, labor, supervision and other material and management items necessary to properly remove solid waste:
 - 1. The contractor or permittee shall provide an adequate number of enclosed packer bed vehicles to provide regular collection services. All vehicles, bins and other equipment shall be kept in good repair, appearance, and in a sanitary condition at all times. Each vehicle or bin facility shall have clearly visible the identity and telephone number of the contractor or permittee;
 - 2. All refuse hauled by contractor or permittee shall be so contained, tied or enclosed that the leaking, spilling or blowing of the material are prevented. In the event such does occur, the contractor or permittee shall be totally responsible for correction of the incident;
 - 3. Contractor or permittee shall dispose of municipal solid waste at a landfill or other facility which holds a current permit for authority to do business with the Oklahoma State Department of Health, it shall be the sole responsibility of the contractor or permittee to lawfully dispose of such wastes;
 - 4. Collection of residential refuse shall not commence before 6:00 A.M. or continue after 7:00 P.M. on the same day. Exceptions to collection hours shall be effected only upon the mutual agreement of the city and contractor or permittee, or when the contractor or permittee reasonably determines that an exception is necessary in order to provide collection on an existing collection route due to unusual circumstances or conditions. The city shall receive written documentation to exceptions. Commercial pickup routes may be operated at any hour not inconsistent with the peace and quiet of neighboring residences; and

5. Contractor or permittee will provide the handicapped, disabled and invalids special service.
- B. When requested under these circumstances, contractor or permittee will pick up the cart from the houseside, empty it and return it to the house at the regular service charge. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-207 INSPECTION, ENFORCEMENT.

The city manager or his designee shall make or cause to be made inspection to determine whether solid waste is being properly disposed of and to further determine if receptacles of the kind required by this article have been obtained by the person required to use the receptacles. It is the duty of the inspector to report to the city attorney any person failing to comply with this chapter. The city attorney is required to institute the necessary proceeding to prosecute the offender as provided herein. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-208 USE OF SERVICES, MANDATORY.

Each dwelling within the city shall accept and use the solid waste disposal service provided by the city whether by contract or permit. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-209 PRIVATE AGENCIES.

- A. It is unlawful for any person to haul or transport any solid waste or refuse, to remove it from any premises situated in the city, or to transport it through the streets, alleys or public places of the city, over any street, highway, a public right-of-way without having first obtaining a permit as hereinafter provided.
- B. An application for permit to operate a sanitation service in the city shall be in writing, verified to by the applicant or his duly authorized representative, shall be filed with the city clerk and shall contain the following information:
 1. The name and current address of the applicant. If the applicant is a partnership, the names and current addresses of each of the partners. If the applicant is a corporation, the state Incorporation Seal and the names and address of the officers and directors thereof;
 2. The current address of the principal place of business of the applicant; a description of the vehicles to be used showing the make, model and type of truck plus state vehicle inspection registration number;
 3. A description of the vehicles to be used showing the make, model and type of truck plus state vehicle inspection registration number;
 4. All other information pertaining to the operation of the service as required by the city manager; and

5. The permittee shall make available to the city a local number which will be answered by a responsible person from 8:00 A.M. to 5:00 P.M. on regular collection days.

C. A sanitation service permit fee in an amount as established by motion or resolution of the city council shall be paid to the city clerk prior to the issuance of any permit and shall be in addition to any fees required by the state. Permits issued pursuant to this chapter are nontransferable:

1. If the application is in accordance with the requirements of this article and state laws, and if approved by the public works director, the city clerk shall issue the permit; and

2. Any sanitation service permit issued hereunder shall be annual and valid for one year and the permit will expire on April 30th of each year. There will be no proration on a partial year.

D. No person required to have a permit under this chapter shall haul or transport any solid waste or refuse or otherwise operate any sanitation service within the city without having a current certificate of insurance on file with the city clerk:

1. Every permittee shall at all times during the term of the permit maintain in full force and effect employer's liability, workmen's compensation, public liability and property damage insurance;

2. All insurance shall be provided by insurers licensed to do business in the state for policy limits acceptable to the city, and before commencement of any services provided hereunder, the permittee shall furnish to the city certificates or other evidence satisfactory to the city to the effect that such insurance has been procured and is in force. Before the expiration of any insurance policy, the permittee shall provide the city with new certificates or other satisfactory evidence of the permittee's holding such insurance. The certificate shall contain the following expressed obligations:

“This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in the policy affecting the certificate holder, ninety (90) days prior written notice will be given to the certificate holder.”

3. For the purpose of this permit, the permittee shall carry the following types of insurance in at least the limits specified below:

<u>Coverage</u>	<u>Limits of Liability</u>
Worker's compensation	Statutory
Employer's liability	\$500,000.00

Bodily injury liability (Except automobile)	\$500,000.00 (each occurrence)
Property damage liability	\$1,000,000.00 aggregate
	\$500,000.00 (each occurrence)
Automobile bodily injury liability	\$1,000,000.00 aggregate
	\$500,000.00 (each occurrence)
Excess umbrella liability	\$5,000,000.00 (each occurrence)

E. Performance bond requirements are as follows:

1. The permittee shall be required to furnish a surety bond as security for the performance of this permit. The surety bond will be in the amount of One Hundred Twenty-five Thousand Dollars (\$125,000.00);
2. Premium for the bond described above shall be paid solely by the permittee. A certificate from the surety showing that bond premiums are paid in full shall accompany each bond; and
3. The surety on the bond may be a duly authorized corporate surety company empowered to do business in the state or other surety approved by the city.

F. The permittee shall not discriminate against any person because of race, sex, age, creed, color, handicap, religion or natural origin.

G. The permittee will indemnify, save harmless and exempt the city, its officers, agents, servants and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees incident to any work done in the performance of this contract arising out of a willful or negligent act or omission of the permittee, its officers, agents, servants and employees; provided, however, the permittee shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees arising out of a willful or negligent act or omission by the city, its officers, agents, servants and employees.

H. The contractor or permittee shall obtain or assure the existence of all licenses and permits necessary to operate in accordance with applicable state laws and promptly pay all taxes required by the city and the state.

I. The following exceptions apply to the above requirements:

1. Activities of the Choctaw Public Works Department. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-210 BUSINESS ESTABLISHMENTS.

A. The contractor or permittee shall provide bins with a tight cover for commercial and industrial units and shall be maintained in a sanitary condition. Each bin shall be placed in an accessible outside location on a hard surface subject to the terms of the individual agreements between the contractor or permittee and customer. Containers shall be located

and maintained so as not to create a fire hazard or provide harborage for rodents or the breeding of insects. The fire marshal of the city shall have authority to prescribe the installation of fireproof solid waste and refuse containers where they will not constitute a fire hazard to any property.

- B. Solid waste shall be kept in a container constructed of galvanized metal or its equivalent in such a manner as to be strong, not easily corrodible, rodent-proof and fly-proof, and shall have a tight-fitting lid. The cover shall not be removed except when depositing or removing the contents of the receptacle. Solid waste containers shall be regularly cleaned in order not to allow fermenting, putrefying and odor.
- C. The city-county health department, by and through its health officer or other authorized agent, may or the public works director of the city shall prescribe for an adequate size container in the event the permittee fails to do so. The failure of the permittee to provide for containers of adequate size shall constitute an offense.
- D. All containers shall be placed in a location so as to be easily accessible for collection.
- E. Each business establishment must have containers as hereinabove provided, except that office buildings are authorized to utilize and provide one container for the entire office building. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-211 COMPLIANCE WITH LANDFILL REGULATIONS; CREATING HAZARDS.

Any person removing any solid waste shall comply with all state laws and city-county health regulations pertaining to sanitary landfill, and shall not in any manner dispose of matter or other products referred to herein so as to create a health hazard or public nuisance. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-212 UNLAWFUL REMOVAL FROM CONTAINER.

It is unlawful for any person without a permit or license to remove or cause to be removed any solid waste of any kind from any solid waste container used for the deposit of solid waste. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-213 USE OF UNENCLOSED CONTAINERS.

It is unlawful for any person to deposit for collection on any street or on any private property in the city, any solid waste without placing it in enclosed containers as set forth herein. It is further unlawful for any sanitation equipment full of solid waste to be left parked or stored on any street or private property in the city pending proper disposal. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-214 FEES.

- A. The fees for all customers of the solid waste collection service under contract or permit shall be charged in such terms for regular collection as set by contractor or permittee and

approved by the city council by motion or resolution. A copy of the current rates shall be kept on file in the city clerk's office.

- B. The contractor or permittee shall be responsible for all billing and collection for all customers. (Ord. No. 9473, 10/1/73; Ord. No. 415, 4/21/92)

§ 17-215 PENALTY.

Any person, firm or corporation who violates any provision of this article shall be guilty of a misdemeanor, and upon conviction shall be fined as provided in § 1-108 of this code. (Ord. No. 415, 4/21/92)

ARTICLE B

SOLID WASTE MANAGEMENT REGULATIONS

- § 17-220 Short title.
- § 17-221 Purpose.
- § 17-222 Definitions.
- § 17-223 Permit required; notice.
- § 17-224 Rules and regulations.
- § 17-225 Powers and duties of city-county health department.
- § 17-226 Illegal dumping of solid wastes, presumption.
- § 17-227 Injunction.
- § 17-228 Penalty.

§ 17-220 SHORT TITLE.

This article may be cited as the city's Solid Waste Management Regulations. (Ord. No. 249, 6/19/84)

§ 17-221 PURPOSE.

It is the purpose of this article and it is hereby declared to be the policy of this city to regulate the collection and disposal of solid wastes in a manner that will:

- A. Protect the public health, safety and welfare;
- B. Prevent water pollution or air pollution;
- C. Prevent the spread of disease and the creation of nuisances;
- D. Conserve valuable land and other natural resources;
- E. Enhance the beauty and quality of the environment; and
- F. Encourage recycling of solid waste. (Ord. No. 249, 6/10/84)

§ 17-222 DEFINITIONS.

As used in this article, unless the context otherwise requires:

- A. “Board” means the Oklahoma City-County Board of Health;
- B. “Department” means the Oklahoma City-County Department of Health;
- C. “Disposal site” means any place subject to standards promulgated by the State Department of Health at which solid waste is dumped, abandoned, or accepted or disposed of by incineration, landfilling, composting, shredding, compaction, baling or any other method or by processing by pyrolysis, source recovery or any other method, technique or process designed to change the physical, chemical or biological character or composition of any solid waste so as to render waste safe or nonhazardous, amenable to transport, recovery or storage or reduced in volume;
- D. “Person” means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, venture, or other legal entity however organized;
- E. “Solid waste” means all putrescible and non-putrescible refuse in solid or semisolid form, including, but not limited to, garbage, refuse, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial wastes and hazardous wastes including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes. Scrap materials which are source separated for collection and processing as industrial raw materials shall not be considered discarded for the purposes of this article, except when contained in the waste collected by or on behalf of a county, city or town; and
- F. “Solid waste management system” means the system that may be developed for the purpose of collection and disposal of solid wastes by any person engaging in process as a business or by any municipality, authority, trust, county or by any combination thereof at one or more disposal sites. (Ord. No. 249, 6/19/84)

§ 17-223 PERMIT REQUIRED; NOTICE.

After adoption of this article and the rules and regulations and a reasonable time fixed by the board of health for compliance therewith, no person shall dispose of solid wastes at any site or facility other than a site or facility for which a permit for solid waste disposal has been issued by the State Department of Health and the Oklahoma City-County Health Department, except that no provision of this article shall be construed so as to prevent a person from disposing of solid waste from his own household upon his own land provided disposal does not create a nuisance or a hazard to the public health or does not violate any other city ordinance. Upon issuance of any permit, the board of health shall file a recordable notice of the permit in the land records of the county. This notice shall contain the legal description of the site as well as the terms under which the permit is issued. (Ord. No. 249, 6/19/84)

§ 17-224 RULES AND REGULATIONS.

The city hereby adopts the rules and regulations promulgated and adopted by the State Health Department in compliance with the Administrative Procedures Act of 1963 (§§ 301-325 in Title 75 of the Oklahoma Statutes). Any subsequent changes or revisions as promulgated by the State Health Department shall automatically become a part of this act. (Ord. No. 249, 6/19/84)

§ 17-225 POWERS AND DUTIES OF CITY-COUNTY HEALTH DEPARTMENT.

The department of health shall have the following powers and duties:

- A. To advise, consult and cooperate with agencies and instrumentalities of the city and county with affected groups and industries in the formulation of plans and the implementation of the solid wastes disposal program;
- B. To accept and administer loans and grants from the federal government and from other sources as may be available to the department for the planning, construction, and operation of solid wastes disposal facilities;
- C. To examine and approve plans and specifications for solid wastes disposal facilities and inspect construction and operation of solid wastes disposal sites and facilities;
- D. To issue, continue in effect, revoke, modify or deny, under rules and regulations of the board, permits for the establishment, construction and the operation or maintenance of solid wastes disposal sites and facilities;
- E. To make investigations and inspections which it deems necessary to insure compliance with this article or the rules and regulations promulgated under authority of this article; and
- F. To make final inspections of closed or abandoned solid waste disposal sites to determine compliance with rules and regulations for proper closure and proper filling and drainage of the site. (Ord. No. 249, 6/19/84)

§ 17-226 ILLEGAL DUMPING OF SOLID WASTES, PRESUMPTION.

It is unlawful for any person to litter, dump, deposit, throw or in any manner leave or abandon any solid waste, including but not limited to, garbage, tin cans, bottles, rubbish, refuse, or trash, on property owned by another person with or without the written permission of the owner or occupant of the property, or on any public highway, street or road, public parks or recreation areas, including but not limited to, the public areas surrounding Ten Acre Lake, or upon any other public property except that designated for such use. (Ord. No. 249, 6/19/84; Ord. No. 286, 8/6/85)

§ 17-227 INJUNCTION.

In addition to any other remedies provided in this article, the director of health may institute proceedings in the district court seeking an injunction to restrain a violation of this article or the rules, regulations or standards adopted thereunder and to restrain the maintenance of a public nuisance. (Ord. No. 249, 6/19/84)

§ 17-228 PENALTY.

Any person who violates any of the provisions of this article or the rules, regulations or standards as adopted by this article shall be guilty of a misdemeanor and upon conviction thereof shall be subject to punishment as provided in § 1-108 of this code. (Ord. No. 249, 6/19/84)

CHAPTER 3

STORM WATER UTILITY

§ 17-301	Purpose.
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§ 17-317	Appeals of fees.

§ 17-301 PURPOSE.

It is the purpose of this chapter to protect, maintain and enhance the environment of the city and the short-term and long-term public health, safety and general welfare of the citizens of Choctaw by controlling discharges of pollutants into the city's storm water drainage system, and to maintain and improve the quality of the community waters into which the storm water outfalls flow including, without limitation, the lakes, rivers, streams, ponds, wetlands, sinkholes and groundwater of the city. It is further the purpose of this chapter to address the mandates of the federal government and to establish a storm water utility to promote public health, safety and welfare by providing for studying, designing, operating, constructing, equipping, maintaining, acquiring and owning within the city a storm water drainage system. The establishment of a storm water drainage system would:

- A. Reduce flood and storm losses and inconveniences from uncontrolled storm water runoff

in the city;

- B. Improve conditions so that the movement of emergency vehicles is neither prohibited nor inhibited during storm or flood periods; and
- C. Preserve the city's watercourses, improve and preserve water quality, minimize water quality degradation and otherwise facilitate urban water resource management techniques, including both the reduction of pollution and the enhancement of the urban environment including, but not limited to, the NPDES permit requirements and such other requirements of the city, state and federal governments. (Ord. No. 613, 12/13/05)

§ 17-302 SCOPE.

This chapter establishes methods to regulate the introduction of pollutants into the municipal storm sewer system and enables the city to comply with all applicable state and federal laws including, but not limited to, the Clean Water Act, the Oklahoma Environmental Quality Act (Title 27A O.S. §§ 1-1-101, et seq.) and the storm water regulations (40 CFR Part 122). The objectives of this chapter are to allow the city:

- A. To regulate the introduction of pollutants to the municipal storm sewer system by storm water discharges by any user;
- B. To control spills, dumping or disposal of materials other than storm water into the municipal storm sewer system;
- C. To prohibit illicit discharges into the municipal storm sewer system;
- D. To carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with this Code; and
- E. To comply with NPDES permit conditions and any other federal or state law pertaining to storm water quality to which the city is subject. (Ord. No. 613, 12/13/05)

§ 17-303 LEGISLATIVE FINDINGS AND POLICY.

The city council finds, determines and declares that the storm water system which provides for the collection, treatment, storage and disposal of storm water provides benefits and services to all property within the incorporated city limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of storm water; the reduction of hazards to property and life resulting from storm water runoff; improvements in general health and welfare through reduction of undesirable storm water conditions; and improvements to the water quality in the storm water and surface water system and its receiving waters. (Ord. No. 613, 12/13/05)

§ 17-304 CREATION OF STORM WATER UTILITY.

- A. For those purposes of the Federal Clean Water Act and of the Oklahoma Environmental

Quality Act (Title 27A O.S. §§ 1-1-101, et seq.), there is created a storm water utility which shall consist of a manager or director and such staff as the city council shall authorize.

- B. The storm water utility, under the supervision and control of the city manager of the city, shall:
1. Administer the acquisition, design, construction, maintenance and operation of the storm water utility system, including capital improvements designated in the capital improvement program;
 2. Administer and enforce this ordinance and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility storm water system, including, but not limited to, the quantity, quality and/or velocity of the storm water conveyed thereby;
 3. Advise the city council and other city departments on matters relating to the utility;
 4. Prepare and revise a comprehensive drainage plan for adoption by the city council;
 5. Review plans and approve or deny, inspect and accept extensions and connections to the system;
 6. Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;
 7. Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility. (Ord. No. 613, 12/13/05)

§ 17-305 DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- A. "Base rate" means the storm water user=s fee for a detached single family residential property in the city.
- B. "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of storm water facilities; preliminary planning to determine the

economic and engineering feasibility of storm water facilities; the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of storm water facilities; and the inspection and supervision of the construction of storm water facilities;

- C. “Developed property” means real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement or other improvements.
- D. “Exempt property” means all properties classified as city, state and federal roads, bridges, highways, streets and rights-of-way; or city parks, city buildings, city facilities and open spaces owned or operated by the city.
- E. “Fee” or “Storm water user’s fee” means the charge established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of storm water management and of operating, maintaining, and improving the storm water system in the municipality. The storm water user’s fee is in addition to any other fee that the municipality has the right to charge under any other rule or regulation of the municipality.
- F. “Fiscal year” means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.
- G. “Impervious surface” means a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.
- H. “Impervious surface area” means the number of square feet of horizontal surface covered by buildings, and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.
- I. “Other developed property” means developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.
- J. “Person” means any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.
- K. “Property owner” means the property owner of record as listed in the county’s assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal

representative.

- L. “Single family residential property” means a developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.
- M. “Storm water” means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.
- N. “Storm water management fund” or “fund” means the fund created by this ordinance to operate, maintain, and improve the city’s storm water system.
- O. “Storm water management” means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.
- P. “Surface water” includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.
- Q. “User” shall mean the owner of record of property subject to the storm water user’s fee imposed by this ordinance. (Ord. No. 613, 12/13/05)

§ 17-306 FUNDING OF STORM WATER UTILITY.

Funding for the storm water utility’s activities may include, but not be limited to, the following:

- A. Storm water user’s fees.
- B. Drainage fees.
- C. Civil penalties and damage assessments imposed for or arising from the violation of the city’s storm water management ordinance.
- D. Storm water permit and inspection fees.
- E. Other funds or income obtained from federal, state, local, and private grants, or revolving funds.

To the extent that the storm water user fees and drainage fees collected are insufficient to construct needed storm water drainage facilities, the cost of the same may be paid from such city funds as may be determined by the city council. (Ord. No. 613, 12/13/05)

§ 17-307 STORM WATER FUND.

All revenues generated by or on behalf of the storm water utility shall be deposited in a storm water utility fund and used exclusively for the storm water utility. (Ord. No. 613, 12/13/05)

§ 17-308 OPERATING BUDGET.

The city council shall adopt an operating budget for the storm water utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service. (Ord. No. 613, 12/13/05)

§ 17-309 STORM WATER USER’S FEES ESTABLISHED.

There shall be imposed on each and every developed property in the city, except exempt property, a storm water user’s fee, which shall be set from time to time by motion or resolution, and in the manner and amount prescribed by this ordinance. (Ord. No. 613, 12/13/05)

§ 17-310 DRAINAGE FEES ESTABLISHED.

There shall be imposed on each and every undeveloped property in the city, except exempt property, a drainage fee, which shall be set from time to time by motion or resolution, and in the manner and amount prescribed by this ordinance. (Ord. No. 613, 12/13/05)

§ 17-311 PROPERTY CLASSIFICATION FOR STORM WATER USER=S FEE.

- A. Property classifications. For purposes of determining the storm water user’s fee, all properties in the city are classified into one of the following classes:
 - 1. Single family residential property;
 - 2. Other developed property;
 - 3. Exempt property.
- B. Single family residential fee. The city council finds that the intensity of development of most parcels of real property in the city classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the city shall be charged a flat storm water management fee regardless of the size of the parcel or the improvements.
- C. Other developed property fee. The fee for other developed property (i.e., non-single-family residential property) in the city shall be charged a flat storm water management fee regardless of the size of the parcel or the improvements.
- D. Exempt property. There shall be no storm water user’s fee for exempt property. (Ord. No. 613, 12/13/05)

§ 17-312 PROPERTY CLASSIFICATION FOR DRAINAGE FEE.

- A. Property classifications. For purposes of determining the drainage fee, all properties in the city are classified into one of the following classes:
 - 1. Single family residential property;
 - 2. Other developed property;
 - 3. Undeveloped property;
 - 4. Exempt property.
- B. Single family residential fee. The city council finds that the intensity of development of most parcels of real property in the city classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the city shall be charged a flat drainage fee, equal the base rate, regardless of the size of the parcel or the improvements.
- C. Other developed property fee. The fee for other developed property (i.e., non-single-family residential property) in the city shall be charged a flat drainage fee regardless of the size of the parcel or the improvements
- D. Undeveloped property fee. The fee for all undeveloped property in the city shall be charged a flat drainage fee regardless of the size of the parcel or the improvements
- E. Exempt property. There shall be no drainage fee for exempt property. (Ord. No. 613, 12/13/05)

§ 17-313 BASE RATE.

The city council shall, by motion or resolution, establish the base rate for the storm water user's fee and drainage fee. The base rate shall be calculated to insure adequate revenues to fund the costs of storm water management and to provide for the operation, maintenance, and capital improvements of the storm water system in the city. Future increases to the rate may be based on size of the parcel or the improvements. (Ord. No. 613, 12/13/05)

§ 17-314 ADJUSTMENTS TO STORM WATER AND DRAINAGE FEES.

The storm water utility shall have the right on its own initiative to adjust upward or downward the storm water user's fees with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of storm water, or any significant variation in the quality of storm water, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the storm water utility shall take into

consideration the location, geography, size, use, impervious area, storm water facilities on the property, and any other factors that have a bearing on the variation. (Ord. No. 613, 12/13/05)

§ 17-315 PROPERTY OWNERS TO PAY CHARGES.

The owner of each non-exempt lot or parcel shall pay the storm water user's fees and charges as provided in this ordinance. (Ord. No. 613, 12/13/05)

§ 17-316 BILLING PROCEDURES AND PENALTIES FOR LATE PAYMENT.

- A. Rate and collection schedule. The storm water user's fee and drainage fee must be set at a rate, and collected on a schedule, established by ordinance or resolution.
- B. Delinquent bills. The storm water user's and drainage fees shall be paid in accordance with the same ordinances as the payment of the other city utilities and shall become delinquent as of 25 days following the billing. Any unpaid storm water user's fee shall bear interest at the legal rate if it remains unpaid after 15 days following the billing.
- C. Penalties for late payment. Storm water user's fees and drainage fees shall be subject to a late fee as established by ordinance or resolution for other utilities. The city shall be entitled to recover attorney's fees incurred in collecting delinquent drainage fees. Any charge due under this ordinance which shall not be paid may be recovered at law by the municipality.
- D. Mandatory statement. Each bill that shall contain storm water user's and drainage fees shall contain the following statement in bold:

THIS FEE HAS BEEN MANDATED BY CONGRESS. (Ord. No. 613, 12/13/05)

§ 17-317 APPEALS OF FEES.

- A. Generally. Any person who disagrees with the calculation of the storm water user's fee and/or drainage fee, as provided in this ordinance, or who seeks a storm water user's fee and/or drainage fee adjustment based upon storm water management practices, may appeal such fee determination to the city within thirty (30) days from the date of the last bill containing storm water user's and drainage fees charges. Any appeal shall be filed in writing and shall state the grounds for the appeal. The public works director may request additional information from the appealing party.
- B. Adjustments. Storm water user's fee and/or drainage fee adjustments for storm water management practices may be considered for: reductions in runoff volume including discharge to a non-city drainage system; and properly designed constructed and maintained existing retention facilities, i.e. evaporation and recharge. Based upon the information provided by the utility and the appealing party, the public works director shall make a final calculation of the storm water drainage fee. The city shall notify the parties, in writing, of its decision. (Ord. No. 613, 12/13/05)

CHAPTER 4

ILLCIT DISCHARGE AND CONNECTION RELATING TO STORM WATER MANAGEMENT

§ 17-401	Purpose and intent.
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§ 17-401 PURPOSE AND INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user.
- B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance. (Ord. No. 622, 6/27/06)

§ 17-402 DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

- A. “Authorized Enforcement Agency” means employees or designees of the director of the municipal agency designated to enforce this ordinance.
- B. “Best Management Practices (BMPs)” means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- C. “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- D. “Construction Activity” means activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of five (5) acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of 1 acre or more and for all smaller tracts that are part of a larger development area and any commercial and industrial activity. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- E. “Hazardous Materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- F. “Illegal Discharge” means any direct or indirect non-storm water discharge to the storm drain system, except as exempted in § 17-410 of this ordinance.
- G. “Illicit Connections” means an illicit connection is defined as either of the following:
 - 1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
 - 2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

- H. “Industrial Activity” means activities subject to NPDES Industrial Permits as defined in 40 CFR, § 122.26 (b)(14).
- I. “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by EPA (or by a 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.
- J. “Non-Storm Water Discharge” means any discharge to the storm drain system that is not composed entirely of storm water.
- K. “Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- L. “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- M. “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- N. “Storm Drainage System” means publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- O. “Storm Water” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- P. “Storm water Pollution Prevention Plan” means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.
- Q. “Wastewater” means any water or other liquid, other than uncontaminated storm water, discharged from a facility. (Ord. No. 622, 6/27/06)

§ 17-403 APPLICABILITY.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency. (Ord. No. 622, 6/27/06)

§ 17-404 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the city manager of the city to persons or entities acting in the beneficial interest of or in the employ of the agency. (Ord. No. 622, 6/27/06)

§ 17-405 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. (Ord. No. 622, 6/27/06)

§ 17-406 DISCHARGE PROHIBITIONS.

A. Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance:
 - a. Water line flushing
 - b. Landscape irrigation
 - c. Diverted stream flows
 - d. Rising ground waters
 - e. Residential building wash water without detergents
 - f. Uncontaminated pumped ground water
 - g. Uncontaminated ground water infiltration
 - h. Discharges from potable water sources
 - i. Foundation or footing drains (not including active groundwater dewatering systems)
 - j. Air conditioning condensate
 - k. Irrigation water
 - l. Springs
 - m. Water from crawl space pumps
 - n. Footing drains
 - o. Lawn watering

- p. Individual residential car washing
 - q. De-chlorinated swimming pool discharges
 - r. Street wash water
 - s. Fire hydrant flushing
 - t. Non-commercial or charity car washes
 - u. Discharges from riparian areas and wetlands.
2. Discharges in compliance with a separate Oklahoma Pollutant Discharge Elimination System (OPDES) or National Pollutant Discharge Elimination System (NPDES) NPDES permit.
 3. Discharges or flows from emergency fire fighting activities provided procedures are in place for the incident commander, fire chief or other on-scene fire fighting official in charge to make an evaluation regarding potential releases of pollutants from the scene. Measures must be taken to reduce any such pollutant releases to the maximum extent practicable subject to all appropriate actions necessary to ensure public health and safety. These procedures must be documented in the city's SWMP. Discharges or flows from fire fighting training activities are not authorized by this permit.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. 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.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (Ord. No. 622, 6/27/06)

§ 17-407 SUSPENSION OF MS4 ACCESS.

- A. Suspension due to Illicit Discharges in Emergency Situations. The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
- B. Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify

a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

- C. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency. (Ord. No. 622, 6/27/06)

§ 17-408 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to the allowing of discharges to the MS4. (Ord. No. 622, 6/27/06)

§ 17-409 MONITORING OF DISCHARGES.

- A. Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
- B. Access to Facilities.
1. The city shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 2. Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
 3. The city shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
 4. The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
 5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the city access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
7. If the city has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction. (Ord. No. 622, 6/27/06)

§ 17-410 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The city will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit. (Ord. No. 622, 6/27/06)

§ 17-411 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, 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. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. (Ord. No. 622, 6/27/06)

§ 17-412 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the United States said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (Ord. No. 622, 6/27/06)

§ 17-413 ENFORCEMENT.

- A. Notice of Violation. Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
1. The performance of monitoring, analyses, and reporting;
 2. The elimination of illicit connections or discharges;
 3. That violating discharges, practices, or operations shall cease and desist;
 4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
 5. Payment of a fine to cover administrative and remediation costs; and
 6. The implementation of source control or treatment BMPs.
- B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. (Ord. No. 622, 6/27/06)

§ 17-414. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the authorized

enforcement agency. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final. (Ord. No. 622, 6/27/06)

§ 17-415 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within three (3) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above. (Ord. No. 622, 6/27/06)

§ 17-416 COST OF ABATEMENT OF THE VIOLATION.

- A. Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within five (5) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

- B. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of ten (10) percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation. (Ord. No. 622, 6/27/06)

§ 17-417 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. (Ord. No. 622, 6/27/06)

§ 17-418 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc. (Ord. No. 622, 6/27/06)

§ 17-419 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. (Ord. No. 622, 6/27/06)

§ 17-420 CRIMINAL PROSECUTION.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of one thousand (\$1,000.00) dollars per violation per day and/or imprisonment for a period of time not to exceed thirty (30) days. The authorized enforcement agency may recover all attorneys' fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses. (Ord. No. 622, 6/27/06)

§ 17-421 REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. (Ord. No. 622, 6/27/06)

CHAPTER 5

UTILITY PROCEDURES

§ 17-501	Purpose; definitions.
§ 17-502	Service mandatory; lien.
§ 17-503	Application for utility service.
§ 17-504	Security deposits.
§ 17-505	Guarantees for entities.
§ 17-506	Service fees and charges.
§ 17-507	Billing and collection.
§ 17-508	Interest; attorney fees and costs.
§ 17-509	Utility services to leased property.
§ 17-510	Applicability.

§ 17-501 PURPOSE; DEFINITIONS.

- A. Purpose. The following regulations as adopted by the City of Choctaw, Oklahoma, are published for the information and guidance of all users of the public utility system of the city and are declared to be part of the contract for services between the city and the owner of premises where such service is furnished.
- B. The following definitions shall apply throughout this ordinance and related rules and regulations:
1. “Customer” means any person or entity who is an owner, landlord or deed holder of property who enters into a contractual agreement with the city to receive and pay for utility services to include water, sewer, sanitation and storm water provided or available to be provided by the city to a premises. Customers may, but need not be, the direct customers or recipients of the services provided. Customers include indirect consumers and recipients and owners who receive benefit or whose property is directly or indirectly benefited or enhanced by the provisions or the availability or charges for utility services.
 2. “Person” means any individual eighteen (18) years or older or an emancipated minor.
 3. “City” means the City of Choctaw, Oklahoma.
 4. “Choctaw Utilities Authority” means a public trust created under the laws of the State of Oklahoma and the city is the beneficiary thereof.
 5. “Entity” means any business or other organization created by or pursuant to statute or private agreement other than a natural person, including but not limited to corporations, limited liability companies, trusts, and partnerships.
 6. “Utility Account” means an account established in accordance with this code for

the providing of utility services to include but not limited to water, sewer, sanitation or storm water or any combination thereof.

7. “Owner” means all persons and entities with an ownership interest in the property or premises as recorded by the Oklahoma County Assessor. (Ord. No. 654, 10/28/08)

§ 17-502 SERVICE MANDATORY; LIEN.

- A. The utility service charges levied and assessed by ordinances of the city shall be payable for each lot, parcel of land, building or other premises, whether occupied or vacant, within or without the Choctaw corporate limits, having a connection with the water and/or sanitary sewer system of the city. By submitting an application and establishing an account the customer consents to a contract for services which includes storm water and sanitation fees and the provisions of this ordinance and into which the provisions of this ordinance are deemed incorporated by reference. Any charges for utility services to such premises which are not paid in full when due shall become a contractual lien against the premises serviced by the connection with the city’s utility system. The terms of the granting of the lien and the rights of the parties shall be set forth in the application and utility service agreement which shall be executed by the customer and shall be a binding contract between the customer and the city.
- B. All property within or outside the city shall be subject to the monthly service charge for storm water and sanitation if such property is developed whether it has a connection to the sanitary sewer and/or water system of the city.
- C. By directly or indirectly accepting utility service or the benefit or enhancement of utility service or the availability of utility service from the city, the customer shall agree to pay for such service and agree such charges shall be charge or imposed on the property and shall be a continuing lien on the property, paramount and superior to all liens or other subsequent obligations of the customer secured by the property, from the date the city’s lien is recorded with the Oklahoma County Clerk. (Ord. No. 654, 10/28/08)

§ 17-503 APPLICATION FOR UTILITY SERVICE.

- A. Any person or entity who owns or leases a premises or real property to be occupied by residence or business shall establish a utility service account to pay for water, sewer, sanitation and storm water service or any combination thereof to the premises, or the availability of such services to the premises. Any person or entity to which utility services from the City is available shall make application to the office of the city clerk or utility billing clerk as outlined in § 2-1 of Resolution No. 95-3. The application shall be signed by all persons or entities having an ownership or leased interest of record in the premises to be served. At the discretion of the city clerk or utility billing clerk, the applicant for services may be required to provide any or all of the following information:
 1. The official address and/or legal description of the premises to be served.

2. The name and address to be used for purposes of billing statements.
 3. The location of all meters serving the applicant's premises.
 4. The applicant's social security number or federal tax id number.
 5. The service address previous utility services were provided to the applicant.
 6. Picture identification from a government entity.
- B. The applicant shall submit to the utility billing clerk such proof of ownership or lease of the property to benefit from the utility service or other personal and financial identification to the satisfaction of the city clerk or the utility billing clerk.
- C. The application shall constitute a general waiver on the part of the applicant of any claim for offset, damage or breach against the city resulting from or occasioned by any defective plumbing or appliance installed or caused to be installed by the owner, lessee or occupant at the premises described in the application.
- D. In addition to the utility service agreement, the application shall also constitute and be construed as a continuing offer of the part of the customer to purchase and be responsible for the cost of the utility services from the city and provision of the utility service or the availability of utility service shall be deemed acceptance of the offer. The applicant shall be the customer and shall be responsible for payment of all utility service charges, fees and penalties until the customer's utilities service agreement is mutually terminated and the responsibility for the service has been officially transferred by the city to a new applicant notwithstanding the transfer of ownership of the property or premise and the ability of the city to jointly or severally charge and collect utility service charges from another person or entity. Acceptance of a utility charge from one person or entity not the current applicant or customer shall not waive the right of the city to collect any other or additional sum due for utility service to said same property or premise from the person or entity official listed as the applicant or customer.
1. The applicant is a person or entity who owes the city, or any other municipality who has entered into an interlocal agreement concerning delinquent utility accounts, on a utility service contract for that premises or any other premises; or
 2. If the application is accepted and a utility account is opened, the customer, which shall be either all persons or entities having an ownership interest or if leased all persons or entities having a leased interest in the premises to be served, shall execute a utility services agreement agreeing to be responsible for all charges for utilities rendered to the premises in a form and manner approved by the city manager and if the customer is a person or entity having an ownership interest the utility services agreement shall authorizes the attachment of a contractual lien on the property or premises for any unpaid utility service charges. The utility services agreement must be so executed prior to utility service being established.

3. All owners, whether buying, selling or leasing the premises served by the city, shall notify the city of the transfer of the ownership or lease of the premises and that the utility account is paid to the date of the transfer of title. Each customer's obligation on the utility account for services after the date of transfer shall terminate only if the city has been notified in writing of transfer of ownership or lease. (Ord. No. 654, 10/28/08)

§ 17-504 SECURITY DEPOSITS.

Security deposits shall be as provided in § 2-2 of Resolution 95-03. (Ord. No. 654, 10/28/08)

§ 17-505 GUARANTEES FOR ENTITIES.

In cases where the customer is an entity, the utility account established in the entities= name must be unconditionally guaranteed by the officers of the entity, or in the case of a partnership, by all members of the partnership, whether general or limited, and all members of a limited liability corporation. In lieu of an unconditioned guarantee, the city may accept a surety bond issued by a surety company authorized to do business in the state of Oklahoma, conditioned upon the payment in full of all charges and fees assessed for utility services rendered to the premises. The amount and form of the guarantee shall be determined by the city manager as sufficient to protect the city from potential loss of fees and charges for utility services to be rendered to the premises. (Ord. No. 654, 10/28/08)

§ 17-506 SERVICE FEES AND CHARGES.

- A. For the purpose of providing funds for the operation, maintenance, repair, and replacement of the utility system of the City, there are fixed and established charges for the use of such system levied and to be levied against each respective customer thereof within and without the City, as provided in Resolution No. 95-03. (Ord. No. 654, 10/28/08)
- B. To charge a surcharge fee in the amount of \$.55 per month per sewer customer for the purpose of proper disposal of sludge generated by the Wastewater Treatment Plant as required under the federal environmental rules and regulations. (Ord. No. 654, 10/28/08; Ord. No. 691, 12/18/12)

§ 17-507 BILLING AND COLLECTION.

The utility billing clerk of the City of Choctaw shall be responsible for the billing and collection of utility charges, which shall be assessed, levied and collected in conjunction with the administration of the charges for sanitation and storm water fees supplied by the city. The same shall be subject to and governed by the valid and applicable rules and regulations from time to time established by the city and CUA with respect to the collection of utility charges. The utility charges shall be a lien upon all real property served by the city. On or before sixty (60) days after termination or unpaid bills, the utility billing clerk shall, in accordance with regulations established by the city, determine the amount delinquent utility charges, together with all other fees, charges and sums authorized by law, contract, or this ordinance and verify and submit such

delinquent utility charges to the city clerk, who will file with the Oklahoma County Clerk a lien on the real property pursuant to the contractual lien granted to the city under the utility services agreement executed by the owner or lessee of the premises served and shall be collected in the same manner as other liens. Upon payment in full to the city of delinquent utility charges and fees, together with all other costs and fees authorized by this ordinance that have been secured by a lien filed with the Oklahoma County Clerk, the utility billing clerk will verify said satisfactory payment to the city clerk, who shall file with the Oklahoma County Clerk an appropriate release of the lien. (Ord. No. 654, 10/28/08)

§ 17-508 INTEREST; ATTORNEY FEES AND COSTS.

Unless otherwise provided in the utility service agreement, the customer agrees that delinquent accounts shall accrue interest on the unpaid balance until paid in full in an amount equal to the statutory rate of interest or the rate of interest on judgments as established by the Oklahoma Supreme Court, whichever shall be the greater. In addition, the city shall be entitled to recover a reasonable attorney's fee and costs incurred in the event collection efforts are required to recover sums due on accounts. Interest, attorney's fees and other costs may be included in and secured by the lien filed against the property as provided herein. (Ord. No. 654, 10/28/08)

§ 17-509 UTILITY SERVICES TO LEASED PROPERTY.

No person or entity, being the owner or other person in charge or having control of real property, shall knowingly cause or permit such real property to be leased, rented or otherwise occupied for human habitation purposes without first providing a lease or rental agreement which shall require the renter or leasee to obtain utility services to such premises or property. (Ord. No. 654, 10/28/08)

§ 17-510 APPLICABILITY.

From and after the effective date of this ordinance, any accounts existing on the effective date of this ordinance which become delinquent two (2) times, new accounts for utility service, including existing accounts being transferred to a different person or entity or to a different location, or any other action resulting in a change in an account shall require execution of a utility service agreement and be subject to the provisions of this ordinance. (Ord. No. 654, 10/28/08)