

PART 18

DRAINAGE AND FLOODING REGULATIONS

CHAPTER 1

CONTROL OF SURFACE WATER
NATURAL RESOURCE CONSERVATION

- § 18-101 Purpose and scope.
- § 18-102 Definitions.
- § 18-103 Choctaw standard drainage policy - recommended control of surface water drainage.
- § 18-104 Responsibility of developer/owner for storm drainage improvements.
- § 18-105 Requirements relating to developments.
- § 18-106 Title ownership and maintenance.
- § 18-107 Administration.
- § 18-108 Penalty.

CHAPTER 2

FLOOD DAMAGE PREVENTION

- § 18-201 Statutory authorization.
- § 18-202 Findings of fact.
- § 18-203 Statement of purpose.
- § 18-204 Methods of reducing flood losses.
- § 18-205 Definitions.
- § 18-206 Lands to which chapter applies.
- § 18-207 Basis for establishing the areas of special flood hazard.
- § 18-208 Establishment of development permit.
- § 18-209 Compliance.
- § 18-210 Abrogation and greater restrictions.
- § 18-211 Interpretation.
- § 18-212 Warning and disclaimer or liability.
- § 18-213 Designation of the floodplain administrator.
- § 18-214 Duties and responsibilities of the floodplain administrator.
- § 18-215 Permit procedures.
- § 18-216 Variance procedures.
- § 18-217 General standards.
- § 18-218 Specific standards.
- § 18-219 Standards for subdivision proposals.
- § 18-220 Floodways.
- § 18-221 Penalties for noncompliance.
- § 18-222 Certification.

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- § 18-104 Responsibility of developer/owner for storm drainage improvements.
- § 18-105 Requirements relating to developments.
- § 18-106 Title ownership and maintenance.
- § 18-107 Administration.
- § 18-108 Penalty.

§ 18-101 PURPOSE AND SCOPE.

- A. It is the intent of this chapter to protect the general health, safety and welfare of the public from the dangers arising from:
 - 1. Improper drainage;
 - 2. Unwise diversion;
 - 3. Use and obstruction of drainage channels;
 - 4. To protect natural scenic areas; and
 - 5. To provide for the conservation of the natural resources of the area.

All subdivisions of land and all developments or improvements of any character which affect drainage in any portion of the city shall be subject to the provisions of these regulations.

- B. The provisions of this chapter shall apply to and be binding upon every person, firm, agency, institution or corporation, and every entity which seeks to develop, redevelop, grade, regrade, excavate, landfill, berm or dike land within the city. (Ord. No. 414, 4/21/92; Ord. No. 452, 10/18/94)

§ 18-102 DEFINITIONS.

As used herein:

- A. “Base flood” or “100-year flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year;

- B. “Detention” means the temporary storage and controlled release of storm water run-off;
- C. “Detention facility” means a facility that provides temporary storage of storm water run-off and controlled release of this run-off;
- D. “Development” means the following activities shall constitute development: any manmade changes to improved or unimproved real estate, including but not limited to:
 - 1. Buildings or other structures; or
 - 2. Mining, dredging, filling, grading, paving, excavation or drilling operations.
- E. The following activities shall not constitute development:
 - 1. Lawn and yard care;
 - 2. Gardening;
 - 3. Tree care and maintenance;
 - 4. Removal of trees or other vegetation damaged by natural forces; or
 - 5. Bonafide agricultural pursuits.
- F. “Floodway” means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
- G. “Historic” means pre-development or existing condition at time of development for all storm frequencies. (Ord. No. 414, 4/21/92; Ord. No. 452, 10/18/94)

§ 18-103 CHOCTAW STANDARD DRAINAGE POLICY – RECOMMENDED CONTROL OF SURFACE WATER DRAINAGE.

- A. City of Choctaw standard drainage policy Part 18 adopted by Ordinance No. 414 adopted April 21, 1992, and amended by the adoption of Ordinance 452 dated October 18, 1994, and appended to this ordinance is hereby adopted and made a part hereof and shall be used for all runoff flow and sizing for the regulations established herein. The current standard drawing and details shall be used.
- B. The drainage policy, standards and detail sheets may be modified from time to time by the city engineer, as necessary, to stay current with the latest engineering practices, methods and materials. (Ord. No. 414, 4/21/92; Ord. No.452, 10/18/94)

§ 18-104 RESPONSIBILITY OF DEVELOPER/OWNER FOR STORM DRAINAGE IMPROVEMENTS.

- A. It shall be the goal of the owner/developer to limit the storm runoff leaving his property to the so-called “historic value” (before development). To achieve this, the developer/owner shall provide storage for the increased storm water runoff resulting from his development.
- B. Where a developer/owner proposes development or use of only a portion of the property, provision for storm runoff control shall be required for that portion of the property proposed for immediate development or use.
- C. The development shall provide a sufficient storm water drainage system for the conveyance of existing storm water runoff received from upstream and from the subject property with specific allowance having been made for the continued conveyance of storm water runoff from properties adjacent to the proposed development which may develop in the future.
- D. All roofs, paved areas, yards, courts and courtyards, other than one-family or two-family residential structures, shall drain into an existing or improved storm sewer system or to an approved place of disposal, not generally including streets.
 - 1. Release of storm water onto arterial (section line) streets may be considered acceptable if one percent (1%) street flow does not exceed four (4) inches in depth during a fifty (50) year storm. Release of storm water onto all other classifications of streets may be considered acceptable if the depth of flow does not exceed six (6) inches in depth at the face of curb during a one hundred (100) year storm event.
 - 2. The addition of off-site storm water improvements may be waived by the city council if, in the opinion of the city council, the addition of storm sewer would cause extreme hardship on the developer, in which case the council will address alternative methods of disposal.
- E. In the case of one-family and two-family residential structures, storm water may be discharged onto flat areas such as streets or lawns if drainage is provided so that the storm water will flow away from the building and if the requirements of the city drainage standards are met.
- F. The owner/developer shall remain responsible for the construction, operation and maintenance of storm water detention systems, except as provided in § 18-106. No conveyance of the responsibility of the detention system is allowed nor implied by the issuance of building permits. Storm water detention systems shall be considered a priority during construction. All storm water drainage systems, erosion control and sedimentation control shall be constructed as one of the first items of a development, and

shall be constructed prior to any change in the storm water runoff of the development. (Ord. No. 414, 4/21/92; Ord. No. 452, 10/18/94)

§ 18-105 REQUIREMENTS RELATING TO DEVELOPMENTS.

- A. In any development or improvement of property, the developer/owner may be required to provide at his own expense a preliminary drainage study for the total area to be ultimately developed. It shall be the responsibility of the city engineer to determine whether the need exists for a preliminary drainage study, and, if required, the study shall be submitted to the city engineer for review prior to his acceptance of any preliminary plat or construction plans for the development or any increment thereof.
- B. The city reserves the right to require improvements to preclude any backup of tail water inundating any areas outside of the development as a result of the base flood.
- C. No excavating or grading or leveling or landfilling of any lot or tract of record for single-family residential developments, multi-family or non-residential development shall be commenced prior to the approval of the preliminary grading plan or building permit.
- D. All developments shall be designed, constructed and completed in a manner which minimizes the removal of vegetation and existing tree cover.
- E. Development activities shall begin and continue only if appropriate sedimentation facilities are installed and maintained throughout the construction period. (Ord. No. 414, 4/21/92; Ord. No. 452, 10/18/94)

§ 18-106 TITLE OWNERSHIP AND MAINTENANCE.

- A. Ownership and maintenance of detention storage facilities shall remain with the private sector unless such areas are in a development that has no neighborhood or homeowners association or the like to regulate such facilities. Other drainage facilities herein provided for may be dedicated to the public and maintained by the public unless such facilities are an integral usable part of the development, in which case the ownership and maintenance of the facilities shall remain with the private sector. Prior to the acceptance of any drainage or detention facility for maintenance by the city, the developer shall be in compliance with the following:
- B. Completed construction of all required facilities and erosion control as approved by the city engineer, or provide sufficient surety bond, cash escrow, or letter of credit approved by the city engineer and city attorney guaranteeing the construction of all required facilities, and erosion controls as approved by the city engineer, within one year; and
- C. Pay a sum to the city equal to Seven Hundred Dollars (\$700.00) multiplied by the number of acres dedicated for the detention facility multiplied by seven (7) years to cover the cost of maintenance. All funds received shall be maintained in a separate account to be used

for the maintenance of detention ponds only. (Ord. No. 414, 4/21/92)

§ 18-107 ADMINISTRATION.

- A. Prior to approval of any plat or plan, the developer's consulting engineer shall submit backwater profiles and stream flow and runoff calculations as may be required by the city engineer under the terms of this chapter.
- B. A building permit or occupancy permit shall not be issued for any structure in the subject area until:
 - 1. The required improvements have been completed and accepted by the city engineer or city director of public works, with approved maintenance bonds on file; or
 - 2. A development bond or irrevocable letter of credit approved by the city attorney and accepted by the city council, guaranteeing the required improvements is on file with the city clerk. (Ord. No. 414, 4/21/92)

§ 18-108 PENALTY.

Any violation of the provisions of this chapter is punishable by fine or imprisonment as provided in § 1-108 of the city's code of ordinances. (Ord. No. 414, 4/21/92)

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§ 18-210 Abrogation and greater restrictions.
§ 18-211 Interpretation.
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§ 18-213 Designation of the floodplain administrator.
§ 18-214 Duties and responsibilities of the floodplain administrator.
§ 18-215 Permit procedures.
§ 18-216 Variance procedures.
§ 18-217 General standards.
§ 18-218 Specific standards.
§ 18-219 Standards for subdivision proposals.
§ 18-220 Floodways.
§ 18-221 Penalties for noncompliance.
§ 18-222 Certification.

§ 18-201 STATUTORY AUTHORIZATION.

The Legislature of the State of Oklahoma has in (statutes) 82 O.S. §§ 1601-1618, as amended, Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City of Choctaw, Oklahoma, ordains the following. (Ord. No. 668, 10/27/09)

§ 18-202 FINDINGS OF FACT.

- A. The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage. (Ord.

No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-203 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- G. Insure that potential buyers are notified that property is in a flood area. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668/ 10/27/09)

§ 18-204 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase flood damage; or
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-205 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- A. “Accessory structure” means structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds);
- B. “Area of special flood hazard” means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM). After detailed rate making has been completed in preparation for publication of the FIRM for Choctaw, Zone A is refined into Zones A and AE;
- C. “Base flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year;
- D. “Base flood elevation” means the elevation in feet above mean sea level of the base flood or 1% chance of flood;
- E. “Basement” means any area of the building having its floor sub-grade (below ground level) on all sides;
- F. “Board” means the Oklahoma Water Resources Board;
- G. “Critical feature” means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised;
- H. “Development” means any man-made change in improved and unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials;
- I. “Elevated building” means a non-basement building built, in the case of a building in Zones A, AE and X, to have the top of the elevated floor adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A, AE and X, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters;
- J. “Existing construction” means for the purpose of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before

January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures”;

- K. “Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community;
- L. “Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads);
- M. “Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters; or
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source;
- N. “Flood Insurance Rate Map” (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community;
- O. “Flood insurance study” means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity;
- P. “Floodplain administrator” means a person accredited by the Board and designated by a city council, to administer and implement laws and regulations relating to the management of the floodplains;
- Q. “Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of flooding);
- R. “Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations;
- S. “Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination

thereof, which provide standards for the purpose of flood damage prevention and reduction;

- T. “Flood protection system” means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- U. “Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents;
- V. “Floodway (regulatory floodway)” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height;
- W. “Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities;
- X. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure;
- Y. “Historic structure” means any structure that is:
 - 1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
 - 2. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
 - 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior;
or

4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the secretary of interior; or
 - b. Directly by the secretary of the interior in states without approved programs;

- Z. “Levee” means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding;

- AA. “Levee system” means a flood protection system which consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices;

- BB. “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of § 60.3 of the National Flood Insurance Program regulations;

- CC. “Manufactured home” means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not a “recreational vehicle”;

- DD. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale;

- EE. “Mean sea level” means for purpose of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which the base flood elevations shown on a community's flood insurance rate map are referenced;

- FF. “New construction” means for the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures;

- GG. “New manufactured home park or subdivision” means a manufactured home park or

subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community;

HH. “Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use;

II. “Start of construction” means (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation of basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building;

JJ. “Structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home;

KK. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred;

LL. “Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the

market value of the structure before “start of construction” of the improvement. This includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
2. Any alteration of a “historic structure” provided that the alteration would not preclude the structure's continued designation as a “historic structure.”

MM. “Variance” means a grant of relief to a person from the requirements of these regulations or ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by these regulations. For full requirements, see § 60.6 of the National Flood Insurance Program regulations;

NN. “Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 60.3(b)(5), (c)(4), (c)(10) or (d)(3) is presumed to be in violation until such time as that documentation is provided; and

OO. “Water surface elevation” means the height, in relation to the National American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-206 LANDS TO WHICH CHAPTER APPLIES.

This floodplain management chapter shall apply to all areas of special flood hazard within the jurisdiction of the community. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-207 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitle, “The Flood Insurance Study for Oklahoma County, Oklahoma and Incorporated Areas dated December 18, 2009,” with accompanying Flood Insurance Rate Map (FIRM) are hereby adopted by reference and declared to be a part of this chapter. This chapter shall go into effect on December 18, 2009 and not before. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09);

§ 18-208 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required to ensure conformance with the provisions of this floodplain management chapter. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-209 COMPLIANCE.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-210 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-211 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor appeal any other powers granted under state statutes. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-212 WARNING AND DISCLAIMER OR LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-213 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The city council appoints the public works director as the floodplain administrator, who will

administer and implement the provisions of this chapter and other appropriate sections of 44 CRF (National Flood Insurance Program Regulations) pertaining to floodplain management. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-214 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- A. Maintain and hold open for public inspection all records pertaining to the provisions of these regulations;
- B. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;
- C. Review, approve or deny all applications for development permits required by adoption of these regulations;
- D. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;
- E. Where interpretation is needed as to the exact location of the boundaries of the areas of special hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretations;
- F. Notify, in riverine situations, adjacent communities and the state coordinating agency, the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- G. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;
- H. Shall require the developer or permittee to provide the base flood elevation data when it has not been provided in accordance with § 18-207, in order to administer the provisions of §§ 18-217 through 18-222;
- I. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface

elevation of the base flood more than one foot at any point within the community; and

- J. Under the provisions of 44 CFR Chapter 1, § 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones AE on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies with 44 CFR, Chapter 1, § 65.12.
- K. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601- 1618, as amended.
- L. After a disaster or other type of damage occurrence to structures in the community shall determine if the residential and non-residential structures and manufactured homes have been substantially damaged and enforce the substantial improvement requirement. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-215 PERMIT PROCEDURES.

- A. Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - 1. Elevation (in relation to mean sea level), of the lowest floor, including basement, of all new and substantially improved structures;
 - 2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - 3. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of § 18-218(B);
 - 4. Description of the extent of which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - 5. Maintain a record of all such information in accordance with § 18-214(A).
- B. Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of these regulations and the following relevant factors:
 - 1. The danger to life and property due to flooding or erosion damage;
 - 2. The susceptibility of the proposed facility and its contents to flood damage and

- the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
 4. The compatibility of the proposed use with existing and anticipated development;
 5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
 7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 8. The necessity to the facility of a waterfront location, where applicable;
 9. The availability of alternative locations, not subject to flooding or erosion damage, for proposed use; and
 10. The relationship of the proposed use to the comprehensive plan for that area. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-216 VARIANCE PROCEDURES.

- A. The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.
- B. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- C. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- D. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.
- F. Variances may be issued for new construction and substantial improvements to be erected

on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in § 18-215(B) of this Article have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

- G. Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (§ 18-203).
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - 1. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - 2. Pre-requisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - b. Variances shall only be issued upon:
 - 1). Showing a good and sufficient cause;
 - 2). A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3). A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or ordinances.
 - c. A written notice will be provided to any person granted a variance to build a structure below the base flood elevation. This notice will inform the variance applicant that the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation.
 - 3. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- a. The criteria outlined in § 18-216(A - H) are met; and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
4. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of twenty-five dollars (\$25.00).
 5. A copy of any variance issued shall be sent to the OWRB within fifteen (15) days of issuance. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-217 GENERAL STANDARDS.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- A. All of new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
- G. On-site waste water disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-218 SPECIFIC STANDARDS.

In all areas of special flood hazards the following provisions are required:

- A. Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at a minimum of one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in § 18-215(A)(3) is satisfied;
- B. Nonresidential construction. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at a minimum of one (1) foot above the base flood elevation. The floodplain administrator shall maintain a record of all elevation certificates that include the specific elevation (in relation to mean sea level) to which each structure has been elevated.
- C. Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - 2. The bottom of all openings shall be no higher than one foot above grade; and
 - 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- D. Manufactured homes:
 - 1. Require that all manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I beam elevated at a minimum of one (1) foot above the base flood elevation. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces and a licensed installer shall install the home and place the required placard on the dwelling;

2. Require that manufactured homes that are placed or substantially improved within Zones AE on the community's FIRM on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the bottom of the I beam of the manufactured home is elevated at a minimum of at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Also, a licensed installer shall install the home;
 3. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones AE on the community's FIRM that are not subject to the provisions of paragraph 4 of this section be elevated so that the bottom of the I beam of the manufactured home is at a minimum of one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement support the manufactured home chassis and also installed by a licensed installer that complies with state law.
- E. Recreational vehicles. Require that recreational vehicles placed on sites within Zones A and AE on the community's FIRM either:
1. Be on the site for fewer than one hundred eighty (180) consecutive days;
 2. Be fully licensed and ready for highway use; or
 3. Meet the permit requirements of § 18-215, and the elevation and anchoring requirements for "manufactured homes" in paragraph 4 of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- F. Accessory structure.
1. Structure is low valued and represents a minimal investment.
 2. Structure shall be small and not exceed 600 square feet in size.

3. Structure shall be unfinished on the interior.
 4. Structure can be used only for parking and limited storage.
 5. Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
 6. Service facilities such as electrical and heating equipment must be elevated to or above the BFE or flood proofed.
 7. Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.
 8. Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.
 9. Structure is firmly anchored to prevent flotation, collapse, and lateral movement.
 10. Floodway requirements must be met in the construction of the structure.
 11. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.
- G. Structure is to be located so as not to cause damage to adjacent and nearby structures. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-219 STANDARDS FOR SUBDIVISION PROPOSALS.

All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with §§ 18-202 through 18-204 of this chapter.

All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet development permit requirements of § 18-208; § 18-215 and the provisions of §§ 18-217 through 18-222 of this chapter.

Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to § 18-207 or § 18-214(H) of this chapter.

All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. No. 138, 12/6/77; Ord. No. 348, 5/23/87; Ord. No. 418, 4/21/92; Ord. No. 668, 10/27/09)

§ 18-220 FLOODWAYS.

Floodways – located within areas of special flood hazard established in Article III, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels with the community during the occurrence of the base flood discharge.
- B. If § 18-220(A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 18-217 through 18-222.
- C. Under the provisions of 44 CFR Chapter 1, § 65.12, of the National Flood Insurance Regulations, a community may permit encroachments with the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community complies with all of 44 CFR Chapter 1, Section 65.12. (Ord. No. 668, 10/27/09)

§ 18-221 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be fined no more than \$500.00 for each offense including any court costs and could be incarcerated no more than thirty (30) days in jail. Nothing herein contained shall prevent the city council or the city attorney from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 668, 10/27/09)

§ 18-222 CERTIFICATION.

It is hereby found and declared by the city council that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in

infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with the minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this chapter becomes effective on December 18, 2009, and not before. (Ord. No. 668, 10/27/09)

CHAPTER 3

STORM WATER UTILITY

- § 18-301. Purpose.
- § 18-302. Scope.
- § 18-303. Legislative findings and policy.
- § 18-304. Creation of storm water utility.
- § 18-305. Definitions.
- § 18-306. Funding of storm water utility.
- § 18-307. Storm water fund.
- § 18-308. Operating budget.
- § 18-309. Storm water user's fees established.
- § 18-310. Drainage fees established.
- § 18-311. Property classification for storm water user's fee.
- § 18-312. Property classification for drainage fee.
- § 18-313. Base rate.
- § 18-314. Adjustments to storm water and drainage fees.
- § 18-315. Property owners to pay charges.
- § 18-316. Billing procedures and penalties for late payment.
- § 18-317. Appeals of fees.

§ 18-301. 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)

§ 18-302. 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)

§ 18-303. 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)

§ 18-304. CREATION OF STORM WATER UTILITY.

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.

The storm water utility, under the supervision and control of the city manager of the city, shall:

- A. Administer the acquisition, design, construction, maintenance and operation of the storm water utility system, including capital improvements designated in the capital

improvement program;

- B. 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;
- C. Advise the city council and other city departments on matters relating to the utility;
- D. Prepare and revise a comprehensive drainage plan for adoption by the city council;
- E. Review plans and approve or deny, inspect and accept extensions and connections to the system;
- F. 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;
- G. 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)

§ 18-305. 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)

§ 18-306. 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)

§ 18-307. 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)

§ 18-308. 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)

§ 18-309. 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)

§ 18-310. 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)

§ 18-311. 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)

§ 18-312. 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)

§ 18-313. 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)

§ 18-314. 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)

§ 18-315. 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)

§ 18-316. 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)

§ 18-317. 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)