

ORDINANCE 688
AN ORDINANCE ADDING TO THE COWETA CITY CODE OF ORDINANCES PART
12 CHAPTER 5 SECTION 12-517 ILLICIT DISCHARGE STORMWATER
DISCHARGES ORDINANCE; REPEALING ALL ORDINANCES TO THE CONTRARY,
AND DECLARING AN EMERGENCY

ILLICIT DISCHARGE ORDINANCE

STORMWATER DISCHARGES

Section I.	Scope.
Section II.	Definitions and Abbreviations.
Section III.	Discharge Requirements.
Section IV.	Spills.
Section V.	Pavement Wash Waters.
Section VI.	Watercourse Protection.
Section VII.	Prohibition of Illicit Connection.
Section VIII.	Construction Activities.
Section IX.	Record Keeping.
Section X.	Reporting Requirements.
Section XI.	Compliance Monitoring Requirements.
Section XII.	Requirements for Best Management Practices.
Section XIII.	Inspections and Sampling.
Section XIV.	Administrative Enforcement Remedies.
Section XV.	Violations, Injunction and Criminal Prosecution.
Section XVI.	Confidential Information.

SECTION I. SCOPE

This Ordinance establishes methods to regulate the introduction of pollutants to the City of Coweta's municipal separate storm sewer system and enables the City to comply with all applicable state and federal laws and regulations, including the federal *Clean Water Act*, 33 U.S.C. §§ 1251, *et seq.*, the *Oklahoma Environmental Quality Act*, 27A O.S.2001, §§ 1-1-101, *et seq.*, and stormwater regulations contained in 40 CFR Part 122, *EPA Administered Permit Programs: the National Pollutant Discharge Elimination System* (NPDES). The objectives of this Ordinance shall permit the City of Coweta to:

- A. Regulate the contribution of pollutants into the municipal separate storm sewer system through the stormwater discharges of any user;
- B. Control the introduction into the municipal separate storm sewer system of spills, dumping, or the disposal of materials other than stormwater;
- C. Prohibit illicit discharges into the municipal separate storm sewer system;

- D. Carry out inspections, surveillance and monitoring procedures necessary to determine compliance and noncompliance with this ordinance; and
- E. Comply with its OPDES Municipal Storm Water Discharge Permit conditions and any other federal or state law or regulation pertaining to stormwater quality.

SECTION II. DEFINITIONS AND ABBREVIATIONS

- A. As used in this chapter, the following terms, phrases and words shall have the meanings given below:

Act or "the Act" shall mean the *Federal Water Pollution Control Act*, also known as the *Clean Water Act*, as amended, 33 U.S.C. §§ 1251, *et seq.*

Administrative Officer shall mean the mayor or other person so designated by the mayor.

Best Management Practice or **BMP** shall mean the best available practices or devices that, when used singly or in combination, eliminate or reduce the contamination of surface waters, ground waters, or both. BMPs shall be divided into the following categories:

1. **Nonstructural Best Management Practices**, which shall mean those which require modified or additional operational or behavior practices, such as sweeping a parking lot or having spill response equipment on site; and
2. **Structural Best Management Practices**, which shall mean those which require the construction of a structure or other physical modification on the site.

City shall mean the City of Coweta, Oklahoma, a municipal corporation, and its duly authorized officers, agents and employees.

Composite Sample shall mean a sample of stormwater run-off, resulting from the combination of individual samples taken at selected intervals, based on an increment of either flow or time.

Discharge shall mean any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.

Environmental Protection Agency or **EPA** shall mean the United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of the EPA.

Floatable shall mean any buoyant or semi-buoyant, organic or inorganic, water-borne waste material such as litter, paper, Styrofoam, grass, leaf litter, cigarette butts and other debris.

Garbage shall mean trash, with reference to collections of pollutants at floatable collection sites.

Grab Sample shall mean a sample of stormwater run-off which is taken on a one-time basis, without regard to the flow and consideration of time.

Illicit Discharge shall mean any intentional discharge to the municipal separate storm sewer system (MS4) that is not composed entirely of stormwater, except discharges pursuant to Subsection IV of this chapter, or discharges resulting from fire fighting activities.

Industrial Activity shall mean any activity which is directly related to manufacturing, processing or raw materials storage areas at an industrial facility. The term includes, but is not limited to, industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the industrial facility; sites where material handling activities are performed; refuse sites; sites used for the applications or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage or disposal; shipping and receiving areas; manufacturing buildings; storage areas, including tank farms, for raw materials, and intermediate and finished products.

Industrial Facility or **Industry** shall mean any premises whose function is classified in the latest edition of the *Standard Industrial Classification Manual*, also known as the SIC code manual, prepared by the Executive Office of the President, Office of Management and Budget.

Material Handling Activities shall mean the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product.

Monitoring shall mean the performance of stormwater flow measurements, stormwater sampling, sample analysis, and like procedures necessary to determine compliance with stormwater discharge activity.

Municipal Separate Storm Sewer System or **MS4** shall mean a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains that are owned or operated by the City and are designed or used for collecting or conveying stormwater.

OPDES Storm Water Discharge Permit shall mean the most current "Multi-Sector General Permit for Storm Water Discharge Associated with Industrial Activities for the State of Oklahoma," or the most current "General Permit for Storm Water Discharge Associates with Construction Activities within the State of Oklahoma," with provisions under the Oklahoma Administrative Code (OAC), § 252:606, incorporating by reference 40 CFR Part 122.26, as issued by the Oklahoma Department of Environmental Quality (ODEQ).

Outfall shall mean a **point source** as defined in this chapter from which pollutants are or may be discharged, or as defined in 27 A O.S. 2001 as amended §§ 1-1-101, *et seq.*

Person shall mean an individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or

their lawful representatives, agents or assignees. This definition shall include all federal, state, and local governments.

Point Source shall mean any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged.

Pollutant shall mean any dredge spoil, solid waste, incinerator residue, oil, grease, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agriculture waste, industrial waste, municipal waste and the characteristics of the wastewater including but not limited to, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor.

Premises shall mean any plot or tract of ground, regardless of size or plat, owned by a person or used by a person and any contiguous plots.

Significant Materials shall mean any raw materials, fuels, materials such as solvents, detergents, and plastic pellets, finished materials such as metallic products, raw materials used in food processing or production, and/or hazardous substances.

Spills shall mean any release that has negatively or has the potential to negatively impact the quality of water within, or discharges from the City's municipal separate storm sewer system (MS4) or causes damaging or deleterious effects to the City's MS4, including all structures or appurtenances, or creates any violation of this chapter.

Stormwater shall mean any rainwater run-off, surface run-off, and drainage related to storm events or snow melt.

Stormwater Discharge Associated with Industrial Activity shall mean stormwater from areas of industrial activity or areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater.

User shall mean any source of direct or indirect discharge into the City's municipal separate storm sewer system (MS4).

B. As used in this chapter the following abbreviations shall have the meanings given below:

- BAT - Best Available Technology
- BMP - Best Management Practices
- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - United States Environmental Protection Agency
- gpd - Gallons per Day
- L - Liter

mg	- Milligrams
mg/L	- Milligrams per Liter
MS4	- Municipal Separate Storm Sewer System
OAC	- Oklahoma Administrative Code
NOI	- Notice of Intent
NOV	- Notice of Violation
NPDES	- National Pollutant Discharge Elimination System
ODEQ	- Oklahoma Department of Environmental Quality
OPDES	- Oklahoma Pollutant Discharge Elimination Discharge System (See Oklahoma Administrative Code (OAC), Title 252, Chapter 606, §§ 252:606-1-1 <i>et seq.</i> , as amended)
POTW	- Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act of 1976 (Pub.L. 94-580, Oct. 21, 1976, 90 Stat. 2795, as amended)
RQ	- Reportable Quantities
SARA	Superfund Amendments and Reauthorization Act of 1986 (Pub.L. 99-499, Oct. 17, 1986, 100 Stat. 1613, as amended)
SWDA	- Solid Waste Disposal Act (Pub.L. 89-272, Title II, Oct. 20, 1965, 79 Stat. 997, 42 U.S.C. §§ 6901, <i>et seq.</i> , as amended)
TSD	- Treatment, Storage, and Disposal Facilities
TSS	- Total Suspended Solids
USC	- United States Code

SECTION III. DISCHARGE REQUIREMENTS

A. Allowable Discharges.

1. The following types of discharges shall not be prohibited discharges unless the Administrative Officer determines that the type of discharge, whether singly or in combination with others, causes contamination of surface water, stormwater or groundwater; causes overload or damage to the MS4 or has the potential to endanger public health and safety; or causes the City to violate its OPDES Municipal Storm Water Discharge Permit:
 - 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 drains
 - 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 flushings
 - t. Non-commercial or charity car washes
 - u. Discharges from riparian areas and wetlands
 - v. Discharges in compliance with a separate Oklahoma Pollutant Discharge Elimination System (OPDES) or National Pollutant Discharge Elimination System (NPDES) NPDES Permit.
 - w. Discharges or flows from emergency fire fighting activities provided that the Incident Commander, Fire Chief or other on-scene fire fighting official in charge makes an evaluation regarding potential releases of pollutants from the scene and summons the hazardous material team if pollutants are suspected. Discharges or flows from fire fighting training activities are not authorized by OKR04 as allowable discharges.
2. Dye testing shall be an allowable discharge, but shall require verbal notification to the Administrative Officer prior to testing. The City shall be exempt from this notification requirement.
 3. Any discharge that has a current NPDES discharge permit with the EPA or has a current OPDES discharge permit with the ODEQ shall be an allowable discharge, with the following exceptions:
 - a. A discharge that results in the City violating its OPDES Municipal Storm Water Discharge Permit;
 - b. A discharge the Administrative Officer determines causes contamination of surface water, stormwater or groundwater within the City; or
 - c. A discharge that could block or damage the MS4.
 4. Stormwater that is associated with and/or intermingled with stormwater from an industrial activity that is allowed under an industrial “NPDES Stormwater Discharge Permit” as defined in 40 CFR Part 122, is an allowable discharge.
 5. Any stormwater that is associated with industrial activity and has had pollutants removed by structural or nonstructural BMPs to a level considered satisfactory by the Administrative Officer is an allowable discharge.
- B. Prohibited Discharges

1. It shall be unlawful and a misdemeanor offense to discharge or allow the discharge of any of the following into the City's MS4:
 - a. All non-stormwater except those classified as an allowable discharge in Subsection III of this ordinance;
 - b. Any stormwater from any activity required to obtain an "NPDES Storm Water Discharge Permit" as defined in 40 CFR Part 122.26(b)(14), unless the discharge is authorized by a valid "NPDES Storm Water Discharge Permit";
 - c. Any spilled pollutants, unless it can be demonstrated that failure to allow the discharge will result in a greater imminent peril or hazard to the life, health, welfare, or safety of the public; or
 - d. Any material that is disposed of or dumped in such a manner that causes pollutants to be discharged.
2. It is a violation of this ordinance for any person to place, store or locate any material in such a manner that causes pollutants to be transported by wind, rain or other atmospheric conditions into the City's MS4.
3. Any point source discharge into the City's MS4 that either singly or in conjunction with other discharges causes the City to violate its OPDES Municipal Storm Water Discharge Permit shall be prohibited.
4. It shall be unlawful and a misdemeanor offense for any person to dispose of grass, dirt, leaves, trash or other pollutants into the City's MS4.
5. Allow an animal to defecate (without the owner, keeper or harboror removing the excreta deposited) on public or private property other than that of the owner.
6. No person shall deposit, drain or divert, whether directly or through an agent, into or upon any public highway, street, sidewalk, alley, parking lot, paving, drainage ditch, storm drain sewer, gutter creek, stream, river, lake, pond or lagoon, any oil or oily liquid with petroleum content, grease, water, or any mud, rotary mud, sand, salt water, sewer waste or industrial waste; or in any manner permit by seepage, overflow, or otherwise, any of such substances to escape from any property owned, lease or controlled by such person nor shall any person allow such substances to flow or be carried upon any public highway, street, sidewalk, alley, parking lot, paving, drainage ditch, storm drain, sewer, gutter, creek, stream, river, pond or lagoon within the city.
7. Any illicit discharge, except those allowable pursuant to Subsection A-1 of this ordinance, shall be prohibited.

SECTION IV. SPILLS

Spills that have the potential to enter or have entered the City's MS4 shall be contained, and remediation activity shall be commenced, as soon as possible. Any person identified as the source of any spill into the City's MS4 shall be required to remediate, remove and properly dispose of spilled materials. Remediation activities shall only be considered complete when the clean-up is deemed satisfactory by the Administrative Officer. The required reporting or notification for such spills shall be completed as specified in Subsection X of this ordinance.

SECTION V. PAVEMENT WASH WATERS

Discharges to the City's MS4, resulting from the cleaning of driveways, parking lots, and other paved surfaces shall be deemed allowable upon the fulfillment of the following requirements:

- A. The person conducting the cleaning shall employ BMPs, including but not limited to absorbent materials, which prevent the discharge of pollutants into the City's storm sewer;
- B. Prior to any washing, floatables shall be removed from the surface that is about to be cleaned.
- C. The discharge shall not result in a violation of the City's OPDES Municipal Storm Water Discharge Permit; and
- D. The discharge, based upon the determination of the Administrative Officer, shall not cause contamination of surface water, stormwater or groundwater within the City.

SECTION VI. 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 adjacent to the watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION VII. PROHIBITION OF ILLICIT CONNECTIONS

- A. The construction, use, maintenance or continued existence of illicit connections to the stormwater drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- B. A person is in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

SECTION VIII. CONSTRUCTION ACTIVITIES

A. All construction activities, including the development, excavation, grading, regrading, paving, landfilling, berming, and diking of land shall be conducted in such a manner as to minimize erosion and prevent the discharge of pollutants, including but not limited to rock, sand, and soil into the City's MS4. Persons conducting the construction shall implement and maintain adequate structural and/or nonstructural BMPs for controlling the discharge of pollutants. In the case of ten (10) acres or more draining to one discharge point, a sediment basin or adequate alternate measures shall be implemented. The adequacy of any BMP shall be based upon the fulfillment of the following requirements:

1. The discharge shall not result in a violation of the City's OPDES Municipal Storm Water Discharge Permit;
2. The discharge, based upon the determination of the Administrative Officer, shall not cause contamination of surface water, stormwater or groundwater within the City; and
3. The discharge, based upon the determination of the Administrative Officer, does not transport sediment into the City's MS4.

B. Responsible Person

1. Any person with overall responsibility for the construction, such as the general contractor, shall be jointly responsible with the person at whose direction the construction is conducted, for the purpose of compliance with this ordinance.
2. If construction on a particular site requires that a "Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity under the OPDES General Permit" be filed with the Oklahoma Department of Environmental Quality (ODEQ), then the Facility Operator listed on the notice shall be responsible for compliance with this ordinance.

C. Erosion Control

1. Erosion control shall be provided during the construction phase on all construction sites as necessary to prevent impacts to offsite areas and/or public rights-of-way. The primary goal of erosion control and best management practices is to minimize erosion and sedimentation during construction activities until final grading, landscaping and storm sewer structures are in place. Best management practices include but are not limited to seeding, sodding, sprigging, silt fences, straw bale dikes, earth dikes or swales, temporary stream crossings, storm sewer inlet protection, temporary sediment basins and stabilized construction entrances.
2. Failure to provide sediment and erosion control protection can result in suspension of building permits. A violation of this Section by failure to comply

with any of its requirements shall constitute an offense and any person or entity convicted thereof shall be punishable as set forth in the Coweta City Code. Provided, that each lot upon which such violation occurs shall constitute a separate offense; and each day on which a violation occurs or is allowed to remain shall constitute a separate offense. The imposition of criminal sanctions, pursuant to Section XIII, shall not prevent the City of Coweta from taking any lawful action as is necessary to prevent or remedy a violation.

3. Construction sites shall adhere to the standards set in the City of Coweta Subdivision Regulations and Design Criteria for Stormwater, Erosion Control, Streets, Water, and Sewers.

D. Allowing construction materials to spill onto public ways.

No person shall place, spill or allow the flow of concrete or similar construction materials on any public road, alley, highway or sidewalk, except as may be required for the construction or the maintenance of the public road, street, highway or sidewalk.

E. Construction debris

1. Construction debris shall be contained in a manner that the debris cannot be carried offsite by wind.
2. Trash containers of sufficient size shall be located on each construction site no later than the time the rough plumbing is ready for inspection and adequately maintained throughout active construction.

SECTION IX. RECORD KEEPING

- A. **Duration.** Every person and industry shall retain and make available to the Administrative Officer for inspection and copying, all records and information required to be retained under this ordinance, or order issued hereunder. The person or industry shall retain these records for a period of no less than five (5) years after an initial request by the Administrative Officer. This retention period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the industry or person has been specifically notified of a longer retention period by the Administrative Officer.
- B. **Fraud and False Statements.** Reports and other documents required to be submitted or maintained under this ordinance, or order issued hereunder, shall be subject to the provisions of 18 U.S.C. § 1001, regarding fraud or false statements and the provisions of § 309c(4) of the Act, as amended, governing false statements, representations, or certification.

SECTION X. REPORTING REQUIREMENTS

- A. **Submission of Correspondence.** Any industry that performs an industrial activity that is required by 40 CFR Part 122.26 to obtain an “NPDES Storm Water Discharge Permit” from the EPA must submit a copy of that application and permit, as well as any written correspondence with any federal, state or local agency regarding the aforementioned permit, to the Administrative Officer within fifteen (15) days of request. For construction sites, Section 3 of the City of Coweta Design Criteria for Stormwater, Erosion Control, Streets, Water, and Sewer requires submission of the Storm Water Pollution Prevention Plan, Notice of Intent for Storm Water Discharges, and Authorizations for Stormwater Discharges to be submitted to the City prior to the start of construction.

- B. **Availability.** Any permits, pollution prevention plans, or other documents regarding an industry's or construction site's OPDES Storm Water Discharge Permit shall be made available to the Administrative Officer upon request.

- C. **Spills.** Any person or industry shall, at the earliest possible time but, in any case, no later than one (1) hour from discovery, orally report to the Administrative Officer a spill, release, dumping, or other situation that has contributed or is likely to contribute pollutants into the MS4. This notification shall include the location, type, concentration and volume, if known, and corrective actions taken for each spill, release, etc. Written notification shall also be made to the Stormwater Department of the City within five (5) days of the discovery of the spill. If the spill is contained, notification to the Administrative Officer shall be next business day. This notification shall include all the notification requirements specified within this section. These reporting requirements shall be in addition to and not in lieu of any other reporting requirements imposed under federal, state and local laws or regulations.

- D. All persons or industrial facilities may be required to provide other reports deemed necessary by the Administrative Officer to monitor, maintain and ensure compliance with this ordinance.

SECTION XI. COMPLIANCE MONITORING REQUIREMENTS

- A. **Stormwater Sampling Event Criteria.** For purpose of routine sampling of storm events, the following criteria must be met:
 - 1. The depth of the rainfall must be greater than one-tenth (0.1) inch or its equivalent;
 - 2. The sample storm event must be preceded by at least seventy-two (72) hours of less than one-tenth (0.1) inch of rainfall; and
 - 3. All outfalls from the premises or industry must be sampled, unless otherwise specified.

- B. **Sampling.** When the Administrative Officer has reason to believe that any person or industrial facility is violating this ordinance, the person or industrial facility may be required to obtain either a grab or composite sample and analyze any discharge, stormwater, groundwater and/or sediment and provide a copy of the analysis to the Administrative Officer for review.
- C. **Illicit Discharge Sampling.** When the Administrative Officer has cause to believe that any discharge is an illicit discharge, the Administrative Officer may obtain either a grab or composite sample and analyze the discharge. If it is determined that the discharge is an illicit discharge, then the Administrative Officer may fully recover all cost of the sampling and analysis from the person or industrial facility, including all reasonable and customary administrative costs. When the discharge is likely to contain illicit discharges on a recurring basis, the person or industrial facility may be required by the Administrative Officer to conduct monitoring activities at its expense. This may be in addition to monitoring activities performed by the City.
- D. **Chain-of-Custody.** Upon completion of sample collections and documentation, a written record of the Chain-of-Custody must be completed. The Chain-of-Custody record is an accurate step-by-step documentation of the sampling path from origin through analysis. It must contain the following information:
1. Name of the person(s) collecting the sample;
 2. Sample ID numbers;
 3. Date and time of sample collection;
 4. Location of sample collection;
 5. Name(s) and signature(s) of all persons, in sequence of ownership, handling the sample in the field and in the laboratory; and
 6. Type of preservation.
- A copy of the Chain-of-Custody will remain with all sample analyses sent to the City of Coweta for review.
- E. **Substitution of Substantially Identical Effluents.** When a person or industry is required to sample a storm event and that person or industry has two or more point sources with substantially identical effluents, the person or industry may petition the Administrative Officer to allow the sampling of only one point source and report that the data apply to the substantially identical point source(s).

- F. **Monitoring Methods.** Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified by the Administrative Officer.

SECTION X. REQUIREMENTS FOR BEST MANAGEMENT PRACTICES

- A. **Implementation.** If the Administrative Officer determines that a stormwater discharge into the MS4 is, or has the potential of, contributing to water quality degradation, has potential to cause any violation of this ordinance or, causes a violation of the City's OPDES Municipal Storm Water Discharge Permit, one or more BMPs shall be implemented. The type and number of BMPs shall be addressed individually, with the initial implementation of nonstructural BMPs, followed by structural BMPs. The Administrative Officer may require additional BMPs to be implemented for any discharge from a commercial, residential and industrial source.
- B. **Spill BMPs.** All persons and industrial facilities shall take measures to prevent spills or any other accidental introduction of pollutants into the MS4.

SECTION XI. INSPECTIONS AND SAMPLING

- A. **Right of Access.** The Administrative Officer bearing credentials, shall be permitted to gain access to such premises as may be necessary for the purpose of inspecting, observing, measuring, sampling and testing, as often as may be necessary, to determine compliance with the provisions of this ordinance.
- B. **Inspections.** The Administrative Officer bearing credentials, retains the right to perform inspections at any industrial facility or any other premises that discharges or has the potential to discharge stormwater into the MS4. Whenever an inspection of such premises is made, the findings shall be recorded and a copy of the inspection report made available to the owner or person in charge of such premises, after finalization of the inspection report.

SECTION XII. ADMINISTRATIVE ENFORCEMENT REMEDIES

The following enforcement provisions are intended to encourage compliance with this chapter.

- A. **Investigation.** The Administrative Officer may investigate any premises where there is reason to believe that there may be a failure to comply with the requirements of this ordinance.

B. **Notice of Violations.** Whenever the Administrative Officer determines that a violation of this ordinance has occurred or is occurring, the Administrative Officer may issue a notice of violation (NOV) to the person or industry. This NOV shall include the nature of the violation and provide a reasonable time for correction. The Administrative Officer may require, within fifteen (15) days of the receipt of this NOV, an explanation of the violation and a plan for the satisfactory correction and prevention, including specific required actions. The explanation and plan shall be submitted by the violator to the Administrative Officer in writing. Submission of this plan shall in no way relieve the person or industry of liability for any violation(s) occurring before or after receipt of the NOV. Issuance of a NOV shall not preclude any other enforcement action.

C. **Administrative Orders.**

1. **Consent Orders.** The Administrative Officer is empowered to enter consent orders, assurances of voluntary compliance, or other similar documents establishing a consensus with any person or industry for noncompliance. Such an order shall include specific action to be taken by the violator to correct the noncompliance within a time period specified in the order. Consent orders shall be judicially enforceable.

2. **Compliance Orders.** When the Administrative Officer finds that a person or industry has violated or continues to violate this ordinance or orders issued hereunder, the Administrative Officer may issue an order to the violator directing that compliance be obtained within a specified time period. If compliance is not achieved within the time period, water service or sewer service, or both services may be discontinued, or a Stop Work Order issued, unless adequate BMPs or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements addressing noncompliance, including additional self-monitoring. A compliance order shall not extend the deadline for compliance established by a federal standard or requirement, nor shall a compliance order release the violator from liability for any violation, including any continuing violation. Issuance of a compliance order shall not preclude any other enforcement action.

3. **Cease and Desist Orders.** When the Administrative Officer finds that a person or industry is violating provisions of this ordinance, or any order issued hereunder, or that past violations are likely to recur, the Administrative Officer may issue an order directing the violator to cease and desist all such violations or activities likely to cause a recurrence, and to:

a. Immediately comply with all requirements, and

- b. Take such appropriate remedial or preventive actions as may be necessary to properly address a continuing or threatened violation, including halting operations or terminating the discharge.
4. Issuance of a cease and desist order shall not preclude other action against the violator.
5. Administrative orders may be revised by the Administrative Officer at anytime in order to insure compliance with this ordinance.

D. Administrative Fines.

1. When the Administrative Officer finds that a user has violated or continues to violate any provision of the ordinance, or order issued hereunder, the Administrative Officer, upon good cause shown, may impose an administrative fine against such user in an amount not to exceed One Thousand Dollars (\$1,000.00). Such fines may be assessed on a per violation, per day basis.
2. Notice of an administrative fine shall be served personally on the user or by certified mail, return receipt requested. Payment of the fine shall be received by the Administrative Officer within fifteen (15) days after such notice is served.
3. Failure to submit payment for an administrative fine within fifteen (15) days shall be considered a violation of this ordinance, subject to penalties under Section XII and Section XIII of this ordinance.
4. Issuance of an administrative fine shall not preclude any other action against the user.

E. Cost Recovery of Expenses Incurred for Violation of this Ordinance. Notwithstanding any other provision of this ordinance, the Administrative Officer may require any person and or industry found to have violated any provision of this ordinance, or orders issued hereunder, to reimburse the City for any goods or services, including administrative costs, used to remove pollutants from the City's MS4, prevent further discharge of pollutants into the MS4, and shall become liable to the City for any expense, loss, or damages experienced by the City as a result of a violation.

F. Water Supply Severance. Whenever a person has violated, or continues to violate any provision of this ordinance, or orders issued hereunder, water service may be severed. Service shall only recommence at the violator's expense, after the violator has satisfactorily demonstrated an ability to comply, and actual compliance.

- G. **Appeals.** Any person aggrieved by any NOV, administrative fine or order issued by the Administrative Officer pursuant to this Section may appeal the action as provided in this subsection.
1. The initiation of an appeal shall be in writing and filed with the Administrative Officer no later than fifteen (15) days after service of notice of the action appealed from. The written notice of appeal shall specify the action appealed, detail why the action is in error, and specify provision of ordinances or statutes supporting the person's appeal.
 2. Upon receipt of a notice of appeal by the Administrative Officer, the Administrative Officer shall conduct any necessary investigation into the basis of the appeal and hold a hearing within thirty (30) days of receipt. However, upon review of the notice of appeal, if the Administrative Officer determines that the basis of the appeal is patently frivolous or filed only for purposes of delay, then the Administrative Officer may deny the appeal without a hearing. Upon the Administrative Officer's denial without a hearing, the appellant shall be notified in writing of the denial and the grounds for denial.
 3. At the conclusion of a hearing on an appeal, if the appeal is sustained in favor of the appellant, the Administrative Officer may modify or withdraw the notice, fine or order. If the Administrative Officer fails to act on the appeal within thirty (30) days of concluding the hearing, the appeal shall be deemed denied. Any ruling, requirements, decisions or actions of the Administrative Officer on appeal shall be final and binding, unless appealed to the City Council.
 4. Any person aggrieved by an appeal decision of the Administrative Officer may perfect an appeal to the City Council by filing a written notice of appeal with the City Clerk and the Administrative Officer within fifteen (15) days from the date of the action by the Administrative Officer. Such notice shall specify grounds for the appeal. A hearing on the appeal shall be commenced by the Council no later than thirty (30) days from the date the notice of appeal was filed with the City Clerk. The City Council shall have jurisdiction to affirm, modify, reverse or remand the action of the Administrative Officer upon good cause shown. Any rulings, requirements, or decision of the Council shall be final and binding, provided that any right of appeal to the courts shall not be abrogated.

SECTION XIII. VIOLATIONS, INJUNCTION AND CRIMINAL PROSECUTION

- A. **Injunctive Relief.** Whenever a person or entity has violated or continues to violate the provisions of this ordinance, or orders issued hereunder, the Administrative Officer, with

the advice and counsel of the City Attorney and the approval of the Administrative Officer, may petition the district court for the issuance of an injunction, which restrains or compels the activities on the part of the person or industry. A petition for injunctive relief shall not preclude any other action against a person or industrial facility.

B. Criminal Prosecution.

It shall be unlawful and a misdemeanor offense for any person to violate any of the provisions of this ordinance, or any order issued hereunder. Any person convicted of a violation of this ordinance, or any order issued pursuant to this ordinance, shall be guilty of a misdemeanor offense and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), excluding costs, fees and assessments, or by imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment. Each day, or portion thereof, during which a violation is committed, continued or permitted shall be deemed a separate offense.

C. Remedies Nonexclusive.

1. The provisions of Sections XIII A and B of this ordinance shall not be exclusive remedies. The City reserves the right to take any combination of actions against a violator of this ordinance. These actions may be taken concurrently.
2. The City may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, administrative costs, and the cost of any actual damages incurred by the City.

SECTION XIV. CONFIDENTIAL INFORMATION

Information and data regarding a person, industrial facility or industrial activity obtained from reports, surveys, OPDES stormwater discharge permit applications or permits, monitoring programs, inspections and sampling activities may be available to the public in accordance with the Oklahoma Open Records Act, (51 O.S.2001, §§ 24.A.1, *et seq.*) or to other government agencies unless the industrial facility or industrial activity can demonstrate to the Administrative Officer's satisfaction that the release of such information would divulge information regarding trade secrets which is entitled to protection under applicable state law. If, in the opinion of the Administrative Officer, that information and data requested may disclose trade secrets or secret processes, then the information or data will not be made available.

SECTION II. Part 12 Chapter 5 Section 12-517 of the Coweta Code of Ordinances is hereby added to include Illicit discharge, stormwater discharges ordinance as granted by the City Council.

SECTION III. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION IV. An emergency exists for the preservation of the public, peace, and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon separately this _____ day of _____, 2008.

Dated this _____ day of _____, 2008.

Mayor

ATTEST:

City Clerk

APPROVED:

City Attorney