

ORDINANCE NO. 1206

AN ORDINANCE ENACTING THE CITY OF JENKS STORMWATER MANAGEMENT PROGRAM; PROVIDING FOR DEFINITIONS AND ABBREVIATIONS; REGULATING AND ESTABLISHING DISCHARGE REQUIREMENTS, STORAGE OF HAZARDOUS OR TOXIC MATERIAL, PRIVATE PROPERTY MAINTENANCE DUTIES, SPILLS, ILLICIT DISCHARGE DETECTION AND ELIMINATION, CONSTRUCTION SITE STORMWATER RUNOFF CONTROL, POST-CONSTRUCTION RUNOFF CONTROL, INSPECTIONS AND MONITORING, ENFORCEMENT, PENALTIES, AND DOCUMENTATION; AND, DECLARING AN EMERGENCY.

Whereas, to be in conformance with Federal requirements mandated upon Jenks to be Phase II compliant per the regulations issued by the Environmental Protection Agency, it is necessary for the City of Jenks to enact a Stormwater Management Ordinance; and,

Whereas, it is the desire of the City of Jenks to enact an Ordinance which will comply with the Federally imposed mandate and that will protect the separate municipal storm sewer system and discharges into our streams and rivers;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JENKS, OKLAHOMA, that the existing Article 4 of Chapter 13 of the Jenks City Code be amended in its entirety to read as follows, to-wit:

See Attached

Approved this 5th day of November, 2007.

Since the immediate operation of the provisions of the Ordinance is necessary for the preservation of public health, welfare and safety, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage by the City Council.

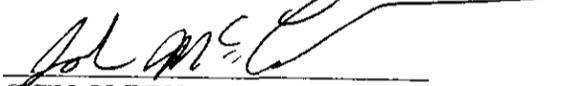
Emergency Clause ruled upon separately this 5th day of Nov., 2007.

CITY OF JENKS, OKLAHOMA



MAYOR

Attest:



CITY CLERK

(Seal)



CITY ATTORNEY

Article 4. Stormwater Management

§13-4-1. GENERAL

The Federal Government has mandated that municipalities, such as Jenks, implement certain programs and procedures to regulate illicit runoff discharge into waters and streams, construction and post-construction runoff, and other matters including management of stormwater runoff from all sources within the City of Jenks. This ordinance establishes procedures to regulate the introduction of pollutants to the City of Jenks' municipal separate storm sewer system and enables the City to comply with Phase II regulations issued by EPA (64 FR 68722).

The objective of this ordinance is to permit the City of Jenks to:

(A) Monitor and report to cognizant agencies suspected of illicit runoff discharges entering the City of Jenks.

(B) Regulate 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) Implement procedures to determine compliance and noncompliance with this ordinance.

(E) Comply with National Pollutant Discharge Elimination System (NPDES) permit conditions and any other federal or state law or regulation pertaining to stormwater quality which specifically regulates local government compliance.

The provisions of this Ordinance shall be deemed as additional requirements to standards required by other City ordinances and supplemental requirements listed below. In case of conflicting requirements, the most restrictive shall apply.

Floodway Supplemental District	Chapter 8 in Zoning Code Book
Flood Damage Prevention	Jenks City Code, Chapter 16, Article 8
Regulation of Earth Changes	Jenks City Code, Chapter 4, Article 17
Storm Water Maintenance Fee	Jenks City Code, Chapter 18, Article 8
Maintenance of Drainage Facilities	Jenks City Code, Chapter 13, Article 4

If the provisions of this Ordinance are inconsistent with regulations of the state or federal government, the more restrictive provision shall control, to the extent required by law.

§13-4-2. DEFINITIONS AND ABBREVIATIONS

As used in this ordinance, 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.

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:

(A) 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

(B) 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 Jenks, Oklahoma, a municipal corporation, and its authorized officers, agents and employees.

Director shall mean the City Engineer / Director of Public Works, or the person succeeding to this person's duties and functions, by whatever name known, or this person's duly authorized representative.

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.

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

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.

NPDES Permit shall mean the "National Pollutant Discharge Elimination System" Phase II Permit for Storm Water Discharge Associated 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 minimally defined by the Act and regulations pursuant thereto.

Person shall mean an individual, partnership, co-partnership, firm, company, corporation, limited liability company, 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 conveyance.

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.

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 ordinance.

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

§13-4-3. DISCHARGE REQUIREMENTS

(A) Allowable and Occasional Incidental Discharges

(1) The following non-storm water sources are allowed and which the City has determined not to be substantial contributors of pollutants to the MS4:

- 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. Measures will be taken to reduce any such pollutant releases to the maximum extent practicable subject to all appropriate actions necessary for public health and safety.

(2) Any discharge that has a current NPDES discharge permit with ODEQ shall be an allowable discharge, with the following exceptions:

- a. A discharge that results in the City violating its NPDES Phase II MS4 Permit;
- b. A discharge the Director determines causes contamination of surface water, stormwater or groundwater within the City; or
- c. A discharge that could block or damage the MS4.

(3) The discharge of stormwater containing pollutants that has been reduced to the maximum extent practicable by the application of best management practices or other management measures set forth in the City's Stormwater Management Program.

(4) Other types of discharges determined allowable by the Director.

(B) Prohibited Discharges

No person shall discharge to a MS4 conveyance, waterbody, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively prevent pollutants from also being discharged with the stormwater, through the use of best management practices (BMPs), except as permitted in §13-4-3 (A).

(1) It is a violation for any Person to improperly dispose of any contaminant into the MS4. Contaminants include, but are not limited to the following:

- a. Trash or debris;
- b. Petroleum products, including but not limited to oil, gasoline, grease, fuel oil or hydraulic fluids;
- c. Antifreeze and other automotive products;
- d. Metals in either particulate or dissolved form;
- e. Flammable or explosive materials;
- f. Batteries of any kind;
- g. Paints, stains, resins, lacquers or varnishes;
- h. Pesticides, herbicides, or fertilizers;
- i. Steam cleaning wastes, except as determined by the Director to be de minimis;
- j. Soaps, detergents or wastewater containing the like;
- k. Heated water, except as determined by the Director to be de minimis;
- l. Animal waste;
- m. Leaking sanitary sewers and connections that have remained uncorrected for more than 7 days;
- n. Recreational vehicle waste;
- o. Animal carcasses;
- p. Medical wastes;
- q. Collected or loose lawn clippings, leaves or branches;
- r. Silt, sediment or gravel;
- s. Dyes;
- t. Washing of fresh concrete residue;
- u. Junk motor vehicles;
- v. Wastewater to storm drain system from the cleaning of fueling stations, auto repair garages or other types of auto repair facilities;
- w. Wastewater to the storm drain system from mobile auto washing, steam cleaning, mobile carpet cleaning, and other mobile commercial and industrial operations;
- x. Discharge from the washing or rinsing of restaurant mats, roof vents, grease traps, garbage bins or cans in such a manner that causes non-stormwater to enter the storm drain system;
- y. Any hazardous material or waste not listed above.
- z. 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
- aa. Any material that is disposed of or dumped in such a manner that causes pollutants to be discharged.

(2) It is a violation for any person to place, store or locate any material in such a manner that causes pollutants to be unreasonably transported by usual atmospheric conditions into the City's MS4.

§13-4-4. STORAGE OF HAZARDOUS OR TOXIC MATERIAL

Storage or stockpiling of hazardous or toxic material within any drainageway, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic

material on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or drainageway.

§13-4-5. PRIVATE PROPERTY MAINTENANCE DUTIES

Every person owning property through which a drainageway passes, or such person's lessee, except where such drainageway maintenance has been accepted by the public or others, shall keep and maintain that part of the drainageway located within their property boundaries, free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

§13-4-6. SPILLS

Spills that have the potential to enter or have entered the City's MS4 shall be contained, and remediation activity will be implemented which will consist of deploying absorbents, chemical neutralizers and/or booms and water skimmers to contain, neutralize and/or remove the chemicals. Such remediation activities shall be the responsibility of the offending party.

§13-4-7. ILLICIT DISCHARGE DETECTION AND ELIMINATION

(A) Episodic incident with no determinable source.

This category is pollutants introduced into the MS4 from individuals in a one-time episode at a point of entry in which the responsible party or source is not traceable. Examples of these are dumping of yard waste, motor oil, antifreeze or trash into a creek or storm drain. These types of pollutants, when discovered in the MS4 or local streams, cannot be effectively investigated as to the source. Discovery of this type of pollutant will be from incident reports from citizens, city crews, police and fire workers, businesses, and State and Federal agency field crews. Prevention of future episodic pollution incidents will rely upon implementation of the Public Education and Public Participation programs.

(B) Chronic or frequent incident with a potentially determinable source

This category is pollutants from sources that are frequently occurring or otherwise traceable through stream channels and the MS4 system using one or more methods of visual inspections, use of simple chemical field test kits and/or formal chemical sampling via laboratory analysis. Pollutants from these sources will be dispersed downstream as a detectable odor, visual color, increased turbidity, excessive algae growth, or changes in water chemistry (e.g. pH or conductivity) when compared to uncontaminated water in the stream or MS4. These potentially traceable pollutants are amenable to "source tracking" inspections, and the sources are more likely to be found and remediated.

(C) Mapping

The Director shall maintain a copy of the City's drainage system which shall be utilized to show basic system features, major outfalls, and prominent receiving streams.

(D) Detection

- (1) Locate Areas that have the greatest potential to discharge pollutants;
- (2) Collect Illicit Discharge and Pollution Information from citizens and designated public inspectors;
- (3) Conduct Visual Dry Weather Screening of the City's storm water outfalls;
- (4) Investigate and Take Follow-Up Action, as required, for different types of pollutants and discharges;

(5) Source Tracking for frequently occurring or traceable sources will be conducted through field monitoring of streams and the MS4 system to locate the pollutant source and, whenever possible, to verify the pollution;

(6) Remove/Correct Sources of Known Origin by directing the offending discharger to correct the problem;

(7) Document Actions Taken with the use of inspection reports.

§13-4-8. CONSTRUCTION SITE STORMWATER RUNOFF CONTROL

(A) Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling. The operator of any construction project that disturbs one acre or more, or is part of the larger common plan of development or sale which disturbs one acre or more, is required to obtain the proper stormwater permit from ODEQ and to comply with all terms and conditions of the permit, in addition to a City Earth Change Permit. The operator shall maintain a copy of the permits onsite for review by any authorized official upon request.

(B) Exemptions. Any emergency activity necessary for the protection of life, property, or natural resources; maintenance and repair work to the City's MS4, permitted operations, and existing nursery and agricultural operations conducted as a permitted main or accessory use, provided such activities do not contribute to any on-site generated erosion, or degradation of lands or water beyond the boundaries of the property or area are exempt from this ordinance.

§13-4-9. POST-CONSTRUCTION RUNOFF CONTROL

In addition to the requirements of §13-4-8, the stormwater pollution prevention plan must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously filter stormwater runoff from the stabilized site. Any project located within the City of Jenks that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of 1 acre or more of total land area, is subject to the requirements of this section. This includes both new development and re-development, and disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land, within the MS4 area. To prevent adverse impacts of stormwater runoff, the following standards must be met:

(A) All operators of construction activities that disturb one acre or more are required to develop and implement structural and/or non-structural BMPs. BMPs shall be appropriate for the local site conditions and shall be selected to minimize water quality impacts.

(B) Runoff is to be controlled to the maximum extent practicable and water quality standards shall be maintained after development of the site.

(C) Long-term operation and maintenance of the BMPs are required to prevent erosion and non-stormwater runoff from sites after active construction has ceased.

(D) Post-runoff flow rates shall not exceed pre-development runoff flow rates and shall be consistent with local and regional watershed plans.

§13-4-10. INSPECTIONS AND MONITORING

(A) Storm Drainage System

The Director's authorized representative(s) will periodically inspect the portion of the storm drainage system under the City's control, in an effort to detect and eliminate illicit discharges

into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

(B) Potential Polluters

If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the City may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the City's authorized representative(s) to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The City's authorized representative(s) may place on the discharger's property, the equipment or devices used for such sampling or inspection. Identified illicit discharges shall be subject to enforcement action as described in §13-4-1 of this Ordinance.

(C) New Development and Re-Development

Following approval of final stormwater plans and following the final completion of construction and the receipt of as-built drawings by the City, new development and re-development sites shall be inspected by the City's authorized representative(s). This inspection will be to verify all on-site stormwater conveyances and connections to the storm drainage system are in compliance.

§13-4-11. ADMINISTRATIVE ENFORCEMENT REMEDIES

(A) Notice of Violation

Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the City Manager's authorized enforcement representative may order compliance by written Notice of Violation to the responsible person. Such notice may require without limitation:

- (1) Issuance of a Stop Work Order;
- (2) The performance of monitoring, analyses, and reporting;
- (3) The elimination of illicit connections or discharges;
- (4) That violating discharges, practices, or operations shall cease and desist;
- (5) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- (6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(B) Appeal

(1) Director. Any person affected or aggrieved by any administrative enforcement remedies which have been entered in connection with the enforcement of any provisions of this ordinance or of any rule or regulation adopted pursuant thereto, shall be granted a hearing before the Director or his designee. Such a person shall file, with the office of the Director, a request, stating the grounds for the hearing, within ten (10) days after the notice or order was served upon the person. Upon receipt of the request, the Director shall set a time and place for the hearing and shall give the petitioner written notice. At such hearing, the petitioner shall be given an opportunity to show why the Director's notice or order should be modified or withdrawn. The hearing shall be held within fifteen

(15) days after the request is filed in the Director's offices, unless the petitioner requests and shows good cause for postponement. The Director shall be the sole judge of whether good cause is shown. After the hearing, the Director may sustain, modify or withdraw the administrative enforcement action(s). The decision of the Director may be appealed to the City Council by filing notice of appeal with the City Clerk within ten (10) days of the Director's decision.

§13-4-12. VIOLATIONS, INJUNCTION AND CRIMINAL PROSECUTION

(A) Injunctive Relief. Whenever a person has violated or continues to violate the provisions of this ordinance or orders issued hereunder, the City Manager may petition the District Court for the issuance of preliminary or permanent injunction (or both as may be appropriate) which restrains or compels the activities on the part of the person. The City Manager shall have such remedies to collect fees as are available to collect other utility service charges. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a person.

(B) Criminal Prosecution.

(1) Any person that has violated or continues to violate this ordinance, or any other issued hereunder, shall be liable to criminal prosecution by the City of Jenks in the Jenks Municipal Court for a maximum penalty of Five Hundred Dollars (\$500) per violation per day.

(2) The City of Jenks may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City of Jenks.

(C) Remedies Nonexclusive. The provisions of §13-4-11 and §13-4-12 are not exclusive remedies. The City of Jenks reserves the right to take any, all or any combination of these actions against a violator of the ordinance. Further, the City of Jenks is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently. Additionally, the pursuit of any of these remedies does not preclude reporting of such violations to the ODEQ or EPA for enforcement.

§13-4-13. CONFIDENTIAL INFORMATION

Information and data regarding a person obtained from reports, surveys, NDPEs stormwater discharge 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.1991, § 24.A.1, *et seq.*) or to other government agencies unless the person can demonstrate to the Director'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 Director, that information and data requested may disclose trade secrets or secret processes, then the information or data will not be made available.

§13-4-14. DOCUMENTATION

(A) Records, inspections, and related correspondence will be retained for a period of no less than five (5) years. This retention period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where a person or company has been specifically notified of a longer retention period by the Director.

(B) A copy of pollution prevention plans and related documents will be provided to the Director.