

RESOLUTION NO. 09-15-2022

**"A SUPPORT RESOLUTION FOR ESTABLISHING AN ACTIVE LIVING WORKGROUP IN SPENCER,
OKLAHOMA."**

It is the intent of the City of Spencer, in enacting this resolution, to establish a Farmers Market Workgroup charged with identifying opportunities to strengthen and support farmers markets, with the goal of increasing access to healthy, local, affordable, and culturally appropriate foods, encouraging community-building, supporting local agriculture and economic development, and promoting agritourism.

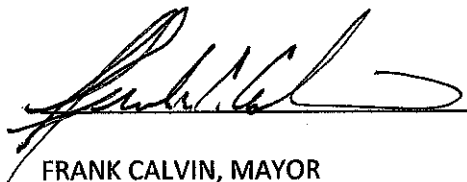
SECTION 1. The City of Spencer shall take the following actions from the date that this resolution is passed, approved, and adopted.

1. Establish a Farmers Market Workgroup.
 - a. The Workgroup will be comprised of relevant city agencies and community stakeholders.
 - i. The City Manager, City Clerk, and Market Manager shall chair and provide operational support to the Workgroup.
 - ii. Additional members shall include representatives from the City of Spencer Administration, City of Spencer City Council, City of Spencer Public Works, and City of Spencer Code Enforcement.
 - iii. The Workgroup shall also include at least three community stakeholders that have relevant experience or expertise in healthy food access or agriculture issues. A representative from each of the following stakeholder groups shall be invited to participate in the Taskforce: Spencer Chamber of Commerce, Spencer Parks and Recreation Board, Spencer Historical Society, as well as other individuals and groups which may include, but not limited to: Oklahoma City-County Health Department, hospitals community advocated, distributors, farmers, and vendors.
2. The Workgroup shall, at a minimum, accomplish the following:
 - a. Review existing ordinances (zoning, permitting, etc.) that pose barriers to establishing farmers' markets.
 - b. Review the information regarding the previous farmers market prior to its hiatus as a result of the pandemic, including:
 - i. successes and barriers;
 - ii. marketing and promotion;
 - iii. market and vendor structure;
 - iv. community investment; and
 - v. other relevant data.
 - c. Identify and prioritize potential outdoor farmers market sites with the aim of increasing local economic development and promoting healthy food access for all residents. Consider public property, including parks, schools, colleges and universities, and temporary street closures where feasible.

- d. Identify opportunities to support affordable markets and increase demand for local agricultural products and encourage the use and acceptance of applicable federal, state, and local food assistance programs such as Electronic Benefit Transfer (EBT/SNAP) cards, Women, Infants, and Children (WIC) benefits, Senior Nutrition Farmers Market Benefit, Double Up Food Bucks, and Tribal Nation farmers market vouchers, or other relevant programs, at all farmers markets.
- e. Identify opportunities increase support for farmers' markets and enhance market sustainability through partnerships with other public agencies and private institutions, including school districts, food policy councils, neighborhood groups, senior centers, cooperative extension service, food banks and pantries, businesses, and agricultural organizations.
- f. Identify opportunities to support the development of farm-to-school programs that offer locally grown foods in school breakfast and lunch programs.
- g. Identify existing resources and amenities as well as needed resources that would support market operations and marketing, such vendor applications, marketing and promotion materials, and social media accounts.
- h. Present a report to the City of Spencer by March of 2023 to summarize findings. At a minimum, this report shall include:
 - i. a summary of the work, findings, and recommendations of the Taskforce;
 - ii. an analysis of the work, findings, and recommendations, including a list of the most feasible recommendations;
 - iii. a proposal for next steps, including how this information will be shared with the community.
- i. Subsequent reports shall be presented annually to the City of Spencer summarizing work completed. At a minimum, these reports shall include:
 - i. Updates on current and finalized market-related projects, including accomplishments, barriers, and next steps;
 - ii. New business and work of the fiscal year;
 - iii. New goals and outcomes related to improving market sustainability and access to health foods; and
 - iv. Steps to share this information with the community.

SECTION 2. The City Manager may issue regulations, guidance, and forms as needed to implement this resolution.

PASSED, APPROVED AND ADOPTED this 15th day of September 2022.



FRANK CALVIN, MAYOR

CITY OF SPENCER, OKLAHOMA

ATTEST:



Cecilia Taft, City Clerk

RESOLUTION NO. - 04-15-2022(1)

**"A SUPPORT RESOLUTION FOR ESTABLISHING AN ACTIVE LIVING WORKGROUP IN SPENCER,
OKLAHOMA."**

It is the intent of the City of Spencer, in enacting this resolution, to establish an Active Living Workgroup charged with promoting active transportation or active mobility that is affordable, safe, and healthy for people of all ages and abilities in Old Town, Kringlen Park, and the 23rd Street Corridor, as well as partner with Spencer Forward and Vision 23rd Street for additional improvements on 23rd Street.

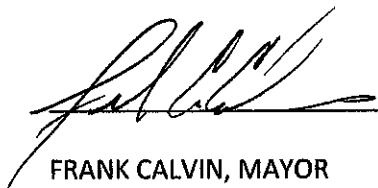
SECTION 1. The City of Spencer shall take the following actions from the date that this resolution is passed, approved, and adopted.

1. Establish an Active Living Workgroup.
 - a. The Workgroup will be comprised of relevant city agencies and community stakeholders.
 - i. The Spencer City Manager shall chair and provide operational support to the Workgroup.
 - ii. Additional members shall include representatives from the City of Spencer Administration, City of Spencer Public Works, City of Spencer City Council, and City of Spencer Code Enforcement
 - iii. The Workgroup shall also include at least three community stakeholders that have relevant experience or expertise in active living and transportation issues. A representative from each of the following stakeholder groups shall be invited to participate in the Workgroup: Spencer Chamber of Commerce, Oklahoma City Public Schools, Community Health Center, Life Changes and Wellness Center, Spencer Parks and Recreation Board, Spencer Planning Commission Board, and Spencer Economic Development Board, and any additional groups that may be comprised of, but not limited to, Oklahoma City-County Health Department, business district representatives, community members, etc.
2. The Workgroup shall, at a minimum, accomplish the following:
 - a. Review existing qualitative and quantitative data that provides information about active living opportunities and needs in Old Town, Kringlen Park and on the 23rd Street Corridor, which may include: crash and injury data; rates of physical activity; rates of chronic diseases linked to physical inactivity; percent of trips made by walking or bicycling; information about the extent and condition of existing pedestrian and bicycle facilities; information about the extent and condition of general infrastructure, with a emphasis around the schools; number and condition of existing signage; amenity inventory; current policies and active transportation plans; and, a summary of feedback from community engagement and outreach activities.
 - b. Identify potential technical project partners, such as the University of Oklahoma's Institute for Quality Communities or other qualified organizations or firms.

- c. Identify short-, medium- and long-term improvements to Old Town, Kringlen Park and the 23rd Street Corridor that will improve safety and accessibility for people walking and bicycling, including infrastructure improvements, maintenance, and wayfinding.
- d. Identify potential sources of funding for improvements, including new construction and ongoing maintenance, which may include the Oklahoma Department of Transportation's Transportation Alternatives Program, a bond, or other grants or revenue sources.
- e. Identify missing and outdated policies to be adopted and/or amended to better suit the vision of active living improvements.
- f. Engage community members, including seeking input on active transportation infrastructure design and programming.
- g. Present a report to the City of Spencer by August 31 of 2023 to summarize the previous fiscal year. At a minimum, this report shall include:
 - i. A summary of the work, findings, and recommendations of the Taskforce;
 - ii. An analysis of the work, findings, and recommendations, including a list of the most feasible recommendations; and
 - iii. Steps to share this information with the community.
- h. Subsequent reports shall be presented annually to the City of Spencer summarizing work completed. At a minimum, these reports shall include:
 - i. Updates on current and finalized projects, including accomplishments, barriers, and next steps;
 - ii. New business and work of the fiscal year;
 - iii. New goals and outcomes; and
 - iv. Steps to share this information with the community.

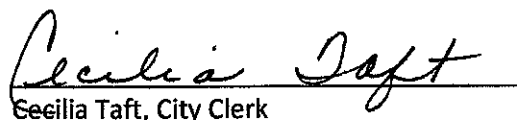
SECTION 2. The City Manager may issue regulations, guidance, and forms as needed to implement this resolution.

PASSED, APPROVED AND ADOPTED this 15 day of September 2022.



FRANK CALVIN, MAYOR

CITY OF SPENCER, OKLAHOMA
ATTEST:



Cecilia Taft, City Clerk

ORDINANCE NO. 2022-09-15

AN ORDINANCE OF THE CITY OF SPENCER ADDING ARTICLE XXI SECTIONS 44-810 THROUGH 44-824 PROHIBITING ILLICIT DISCHARGES, REGULATING STORM WATER DISCHARGES, PROVIDING DEFINITIONS AND ABBREVIATIONS, ESTABLISHING DISCHARGE REQUIREMENTS, REGULATING PAVEMENT WASH WATERS, PROHIBITING ILLICIT CONNECTIONS, REGULATING CONSTRUCTION ACTIVITIES, REGULATING POST-CONSTRUCTION STORM WATER IMPACTS, PROVIDING FOR WATERCOURSE PROTECTION, ESTABLISHING A PROCEDURE FOR VARIANCE, PROVIDING FOR MONITORING OF DISCHARGES, PROVIDING FOR RECORD KEEPING, PROVIDING FOR REPORTING REQUIREMENTS, PROVIDING FOR COMPLIANCE MONITORING REQUIREMENTS, PROVIDING FOR BEST MANAGEMENT PRACTICES, PROVIDING FOR INSPECTION AND SAMPLING, PROVIDING FOR ADMINISTRATIVE ENFORCEMENT REMEDIES, PROVIDING FOR INJUNCTION AND CRIMINAL PROSECUTION, PROVIDING FOR CONFIDENTIAL INFORMATION, DECLARING REPEALER, DECLARING SEVERABILITY AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPENCER OKLAHOMA:

Section 1. Article XXI is added to the Code of Ordinances of the City of Spencer as follows:

ARTICLE XXI: ILLICIT DISCHARGES

Stormwater Discharges

Sec. 44-810 Scope

Sec. 44-811 Definitions and abbreviations

Sec. 44-812 Discharge requirements

Sec. 44-813 Spills

Sec. 44-814 Pavement wash waters

Sec. 44-814A Prohibition of illicit connections

Sec. 44-815 Construction activities

Sec. 44-815A Post-construction stormwater impacts; minimization regulations and requirements; compliance procedures

Sec. 44-816 Watercourse protection

Sec. 44-816A Request for variance
Sec. 44-816B Monitoring of discharges
Sec. 44-817 Record keeping
Sec. 44-818 Reporting requirements
Sec. 44-819 Compliance monitoring requirements
Sec. 44-820 Requirements for Best Management Practices
Sec. 44-821 Inspections and sampling
Sec. 44-822 Administrative enforcement remedies
Sec. 44-823 Violations, injunction and criminal prosecution
Sec. 44-824 Confidential information

STORMWATER DISCHARGES

§ 44-810 SCOPE.

This chapter establishes methods to regulate the introduction of pollutants to the city'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 chapter shall permit the city 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 chapter; 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.

§ 44-811 DEFINITIONS AND ABBREVIATIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or THE ACT. 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. 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.** 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.** Those which require the construction of a structure or other physical modification on the site.

CITY. The City of Spencer, Oklahoma, a municipal corporation, and its duly authorized officers, agents and employees.

COMPOSITE SAMPLE. 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.

DIRECTOR. The Director of Public Infrastructure, or the person succeeding to this person's duties and functions, by whatever name known, or this person's duly authorized representative.

DISCHARGE. 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. 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. Trash, with reference to collections of pollutants at floatable collection sites.

GRAB SAMPLE. 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. Any intentional discharge to the municipal separate storm sewer system (MS4) that is not composed entirely of stormwater, except discharges pursuant to § 44-813 of this chapter, or discharges resulting from fire fighting activities.

INDUSTRIAL ACTIVITY. 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. 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. The storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product.

MONITORING. 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. 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. 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. A point source as defined in this chapter.

OVERBURDEN. Any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface material that are not disturbed by mining operation.

PERSON. 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. 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. 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. 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. 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, hazardous substances.

SPILLS. 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. Any rainwater run-off, surface run-off, and drainage related to storm events or snow melt.

STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY. 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. 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 et seq., as amended)

POTW Publicly Owned Treatment Works

RCRA Resource Conservation and Recovery Act of 1976 (Pub.L. 94580, 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, et seq., as amended)

TSD Treatment, Storage, and Disposal Facilities

TSS Total Suspended Solids

USC United States Code

§ 44-812 DISCHARGE REQUIREMENTS.

(A) Allowable discharges.

(1) The following types of discharges shall not be prohibited discharges unless the Director 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 Director prior to testing. The city shall be exempt from this 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 Director 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 not associated with and/or intermingled with stormwater that is associated with industrial activity required to obtain an "NPDES Stormwater Discharge Permit" as defined in 40 CFR Part 122, before the point source discharge to the municipal to the MS4, 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 Director is an allowable discharge.

(B) Prohibited discharges.

(1) (a) No person shall discharge or cause to be discharged into the municipal storm water drainage system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any unlawful discharge is prohibited.

(b) It is unlawful for any residence or business to allow drainage of a polluting substance or to allow drainage of water which may become a hazard into any street, alley or sidewalk. A polluting substance is one so defined under 82 O.S. § 926.1.

(c) It shall be unlawful and a misdemeanor offense to discharge or allow the discharge of any of the following into the city's MS4:

1. All non-stormwater except those classified as an allowable discharge in division (A) of this section;

2. 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";

3. 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

4. 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 chapter 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 or street, alley, sidewalk or pavement.

(3) Any point source discharge into the city's MS4 or street, alley, sidewalk or pavement 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 or street, alley, sidewalk or pavement.

(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 or into the city's MS4 or street, alley, sidewalk or pavement.

(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, leased or controlled by such person nor shall any person allow such substances to flow or be carried onto or upon any public highway, street, sidewalk, alley, parking lot, paving, drainage ditch, storm drain, sewer, gutter, creek, stream, river, lake, pond or lagoon within the city.

(7) Any illicit discharge, except those allowable pursuant to division (A)(1) of this section, shall be prohibited.

§ 44-813 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. In case of vehicle accident, all spillage shall be properly contained and cleaned and stored with accident vehicle. 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 Director. The required reporting or notification for such spills shall be completed as specified in § 44-818 of this chapter.

§ 44-814 PAVEMENT WASH WATERS.

Discharges to the city's MS4 or upon any public highway, street, sidewalk, alley, parking lot, paving drainage ditch, storm drain, sewer, gutter, creek, stream, river, lake, pond or lagoon within the city, 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 Director, shall not cause contamination of surface water, stormwater or groundwater within the city.

§ 44-814A 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 considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

§ 44-815 CONSTRUCTION ACTIVITIES.

(A) General provisions.

(1) General performance standards. Any person subject to a construction activity NPDES and/or OPDES Stormwater Discharge Permit shall comply with all provisions of such permit(s). Proof of compliance with said permit(s) may be required in a form acceptable to the Stormwater Manager and/or Stormwater Inspector prior to the allowing of discharges to the MS4. All construction activities including but not limited to the development, excavation, clearing, grading, regrading, paving, land filling, 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, soil, discarded building materials, concrete truck washout, chemicals, litter and sanitary waste into the city's Municipal Separate Storm Sewer System (MS4). Persons conducting the construction shall implement and maintain adequate structural and/or nonstructural BMPs for controlling erosion and preventing the discharge of pollutants to the MS4. The discharge shall not result in a violation of the city's OPDES Municipal Stormwater Discharge

Permit. The discharge, based upon the determination of the Stormwater Manager and/or Stormwater Inspector, shall not cause contamination of surface water, stormwater or groundwater within the city. The discharge, based upon the determination of the Stormwater Manager and/or Stormwater Inspector, does not transport sediment into the city's MS4. All construction site stormwater runoff control BMPs and post-construction stormwater runoff BMPs shall comply with the current ODEQ OKR10 construction permit and the City of Spencer Engineering Design Criteria and Standard Specifications.

(2) Responsible person. The person with overall responsibility of the construction, such as the general contractor, shall be jointly responsible with the person at whose direction the construction is being conducted for compliance with division (A)(1) of this section.

(3) Record keeping. The person or persons responsible shall retain, and make available to the Stormwater Manager and/or Stormwater Inspector, for inspection and copying, all records and information required to be retained under this section or order issued hereunder. These records shall remain available for a period of at least three years after expiration of the applicable permit. This period shall be automatically extended for the duration of any litigation concerning compliance with this section, or where the person or persons responsible have been specifically notified of a longer retention period by the Stormwater Manager and/or Stormwater Inspector.

(B) Construction. 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 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 Director, shall not cause contamination of surface water, stormwater or groundwater within the city; and

(3) The discharge, based upon the determination of the Director, does not transport sediment into the city's MS4.

(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. Failure to provide sediment and erosion control protection can result in suspension of the earth change, stormwater development and building permits. A violation of this section by the 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 Spencer 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 sections shall not prevent Spencer from taking any lawful action as is necessary to prevent or remedy a violation.

(2) Sediment and Erosion Control Permit.

(a) Unless specifically exempted, a Sediment and Erosion Control Permit, as defined and regulated by this section, shall be obtained from the Planning and Development Services Department for any construction activities causing land disturbance. The Sediment and Erosion Control Permit must be obtained prior to commencement of any construction activities including, but not limited to any development, excavation, clearing, grading, regrading, land filling, berming and diking of land.

(b) Exemptions. A Sediment and Erosion Control Permit shall not be required for the following: customary and incidental routine grounds maintenance, landscaping, and home gardening; construction activities related to bona fide agricultural, ranching and farming operations which constitute the principal use of a tract of ground in the City of Spencer and are under the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry; construction activities occurring at oil and gas exploration and production related industries and pipeline operations that are under the jurisdiction of the Oklahoma Corporation Commission (OCC); and construction activities occurring on Indian Country Lands (as defined in 18 U.S.C. § 1151).

(c) Application for Sediment and Erosion Control Permit. For each Sediment and Erosion Control Permit a written application from the owner of the site, or his or her authorized representative, shall be provided to the Planning and Development Services Department in the form and with the content prescribed in this section, and shall be accompanied by a minimum of three copies of a Sediment and Erosion Control Plan with the content prescribed in this section, and the required Sediment and Erosion Control Permit fee as set forth in this section. The permit application shall include the following information:

1. Name, address and telephone number of the legal owner of the property for which the Sediment and Erosion Control Permit is requested;
2. Name, address and telephone number of applicant, if different from the property owner;
3. Name(s), address(es) and telephone number(s) of any and all contractors, subcontractors or persons actually doing the land disturbing or land filling activities;

4. Name(s), address(es) and telephone number(s) of the person(s) responsible for the preparation of any required vicinity map;

5. Name(s), address(es) and telephone number(s) of the person(s) responsible for preparation of the Sediment and Erosion Control Plan and any required reports;

6. Legal description of the site and the address of the site (if a valid address has been assigned and/or accepted by the city);

7. Size of the construction site, measured in acres;

8. Proposed start date of the project;

9. Proposed completion date of the project;

10. Date of the application; and

11. Signature(s) of the owner(s) of the site or an authorized representative.

(d) Sediment and Erosion Control Plan requirements. These plans shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed construction activities on water resources, and the best management practices (BMPs) and other measures proposed to minimize soil erosion and prevent off-site sedimentation. All sediment and erosion control measures must be properly selected, installed and maintained in accordance with the manufacturer's specifications and good engineering practices. All construction activities including but not limited to the development excavation, clearing, grading, regrading, landfilling, berming and diking of land shall be performed in strict accordance with the approved plan.

1. For construction sites less than one acre that are not part of a larger common plan of development or sale that is one acre or more, the following information shall be included in any plan:

A. A project narrative describing the nature of the construction activity;

B. A description of any surrounding watercourses, water bodies and other significant geographical features;

C. Legal description of the site and the address of the site (if a valid address has been assigned and/or accepted by the City of Spencer);

D. The name, address and telephone number of the owner and/or developer of the property where the land disturbing activity is proposed;

E. A description of, and specifications for, sediment and erosion control measures to minimize on-site erosion and prevent off-site sedimentation during the construction process, including provisions to preserve topsoil and limit disturbance. Minimum control measures must include the proper installation and maintenance of silt screen around the perimeter of the construction site. The applicant may propose the use of any sediment and erosion control measures in a plan provided such measures are proven to be as or more

effective than the measures contained in this section and the current City of Spencer Engineering Design Criteria and Standard Specifications;

F. A chronological schedule describing when the sediment and erosion control measures will be implemented during the construction process;

G. A description of temporary and permanent stabilization measures. The plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of site are stabilized. Stabilization practices may include but are not limited to the establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation and other appropriate measures. Use of impervious surfaces for stabilization should be avoided. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased except:

i. Where the initiation of stabilization measures by the fourteenth day after construction activity temporarily or permanently ceased is precluded by adverse climatological conditions (i.e., snow, ice, heavy rains or drought) stabilization measures shall be initiated as soon as practicable; and

ii. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 21 days, temporary stabilization measures do not have to be initiated on that portion of the site; and

H. The Stormwater Manager and/or Stormwater Inspector may require any additional information or data deemed appropriate and/or may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this section or the preservation of public health and safety.

2. [Reserved].

3. For construction sites greater than or equal to one acre and for construction sites that are less than one acre if the construction site is part of a larger common plan of development or sale that is one acre or more, Sediment and Erosion Control Plans shall be prepared by or under the direction of a registered professional engineer licensed by the State of Oklahoma. Any required Sediment and Erosion Control Plans shall comply with good engineering practices and shall be approved and stamped by a registered professional engineer licensed by the state. In addition the following information shall be included in any plan:

A. A project narrative describing the nature of the construction activity;

B. An attached vicinity map showing the location of the site in relationship to the surrounding area's watercourses, water bodies and other significant geographical features, roads and other significant structures, and showing suitable contours for the topography. An indication of the scale used (this map shall be at a scale no smaller than one inch = 100 feet) and an arrow indicating north shall be included on the map;

C. Legal description of the site and the address of the site (if a valid address has been assigned and/or accepted by the city);

D. The name, address and telephone number of the owner and/or developer of the property where the land disturbing activity is proposed;

E. A chronological schedule and description of construction activities that disturb soils of the site (e.g., clearing, grubbing, excavation, grading, utilities and infrastructure installation);

F. A description of, and specifications for, sediment and erosion control measures to minimize on-site erosion and prevent off-site sedimentation during the construction process, including provisions to preserve topsoil and limit disturbance. Minimum control measures include the proper installation and maintenance of silt screen around the perimeter of the construction site; the proper installation and maintenance of control measures around all storm sewer inlets; the proper installation and maintenance of controls to minimize erosion on all slopes greater than three horizontal to one vertical (3:1) where land disturbing activity is planned; and stabilized gravel construction site entrances/exits to prevent tracking or flowing of sediment onto public right-of-ways. The applicant may propose the use of any sediment and erosion control measures in a plan provided such measures are proven to be as or more effective than the measures contained in this section and the current City of Spencer Engineering Design Criteria and Standard Specifications;

G. A chronological schedule describing when the sediment and erosion control measures will be implemented during the construction process;

H. A description of temporary and permanent stabilization measures. The plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of site are stabilized. Stabilization practices may include but are not limited to the establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, solid stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation and other appropriate measures. Use of impervious surfaces for stabilization should be avoided. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased except:

i. Where the initiation of stabilization measures by the fourteenth day after construction activity temporarily or permanently ceased is precluded by adverse climatological

conditions (i.e., snow, ice, heavy rains or drought) stabilization measures shall be initiated as soon as practicable; and

ii. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 21 days, temporary stabilization measures do not have to be initiated on that portion of the site;

I. A description of measures that will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed;

J. A copy of all required state and federal stormwater discharge permits (NPDES filed with EPA; OPDES filed with ODEQ) for the construction site shall be provided to the Planning and Development Services Department. If an OKR10 permit is required by ODEQ for stormwater discharges from a construction site, then the following documents shall be provided to the Planning and Development Services Department:

- i. A copy of the notice of intent submitted to ODEQ for the OKR10 permit;
 - ii. A copy of all stormwater pollution prevention plans developed for the construction site; and
 - iii. A copy of the authorization to Discharge Stormwater Permit issued by ODEQ;
- and

K. The Planning and Development Services Department may require any additional information or data deemed appropriate and/or may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this section or the preservation of public health and safety.

(e) Permit application review. The Planning and Development Services Department shall review each application for a Sediment and Erosion Control Permit to determine its conformance with the provisions of this section. Within 15 business days after receiving a complete application, the Planning and Development Services Department shall:

- 1. Approve the permit application;
- 2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this section, and issue the permit subject to these conditions; or
- 3. Disapprove the permit application, indicating the reason(s) for disapproval.

(f) Permit disapproval. If the Planning and Development Services Department determines that the Sediment and Erosion Control Plan does not meet the requirements of this section, then a Sediment and Erosion Control Permit shall not be issued. The Sediment and Erosion Control Plan must be resubmitted and must be approved by the Planning and Development Services Department before the land disturbance activity begins.

(g) Conditions of approval. In granting any Sediment and Erosion Control Permit pursuant to this section, the Planning and Development Services Department may impose such conditions as may be reasonably necessary to prevent creation of a nuisance or unreasonable hazard to persons or to a public or private property. Such conditions shall include (even if not specifically written in the permit), but need not be limited to:

1. The granting (or securing from others) and the recording in county land records of easements for drainage facilities, including the acceptance of their discharge on the property of others, and for the maintenance of slopes or erosion control facilities;

2. Adequate control of dust by watering, or other control methods acceptable to the Planning and Development Services Department, and in conformance with applicable air pollution ordinances;

3. Improvements of any existing grading ground surface or drainage condition on the site (not to exceed the area as proposed for work or development in the application) to meet the standards required under this section and the current City of Spencer Engineering Design Criteria and Standard Specifications; and

4. Sediment traps and basins located within a densely populated area or in the proximity of an elementary school, playground or other area where small children may congregate without adult supervision may be requested to install additional safety related devices.

(h) Permit authorization. The issuance of a Sediment and Erosion Control Permit shall constitute an authorization to do only that work described in the permit, or shown on the approved Sediment and Erosion Control Plan and specifications, all in strict compliance with the requirements of this section, unless each and every modification or waiver is specifically listed and given specific approval by the Planning and Development Services Department.

(i) Permit duration. The permittee shall fully perform and complete all of the work required in the sequence shown on the plans within the time limit specified in the permit. Permits issued under this section shall be valid for the period during which the proposed land disturbing or filling activities and soil storage takes place or is scheduled to take place, whichever is shorter, but in no event shall such a permit be valid for more than one year after cessation of construction activity.

(j) Responsibility of permittee. The permittee shall maintain a copy of the Sediment and Erosion Control Permit, approved plans and reports required under the Sediment and Erosion Control Permit on the work site, or if unable to store on the work site, must be locally available for public inspection during all working hours. The permittee shall, at all times, be in conformity with the approved Sediment and Erosion Control Plan and also conform to the following:

1. General. Notwithstanding other conditions or provisions of the Sediment and Erosion Control Permit, or the minimum standards set forth in this section, the permittee is responsible for the prevention of damage to adjacent property. No person shall grade on land in any manner, or so close to the property line as to endanger or damage any adjoining public street, sidewalk, alley or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sedimentation or other damage or personal injury which might result; and

2. Public ways. The permittee shall be responsible for the prompt removal of, and the correction of damages resulting from any soil, miscellaneous debris or other materials

washed, spilled, tracked, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfare, incident to the construction activity, or during transit to and from the construction site.

(k) **Liability.** The permittee is responsible for safely and legally completing the project. Neither the issuance of a Sediment and Erosion Control Permit under the provisions of this section, nor the compliance with the provisions hereto or with any condition imposed by the city, shall relieve any person from responsibility for damage to persons or property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the city for damages to persons or property.

(l) **Action upon noncompliance.**

1. In the event work does not conform to the Sediment and Erosion Control Permit or to the plans and specifications or to any conditions imposed by the city, notice to comply shall be given to the permittee in writing. The notice shall set forth a notification and compliance period of at least 15 days for the permittee to comply with the requirements of the notice, except that when an imminent hazard exists, the Planning and Development Services Department may require that corrective work begin immediately. The notification and compliance period will begin on the day the notice is mailed to the permittee or the day the notice is posted on the property that is not conforming to the permit requirements, except that when an imminent hazard exists, the Stormwater Manager and/or Stormwater Inspector may order an immediate summary abatement action to abate the violation. At the time of mailing of notice, the city shall obtain a receipt of mailing from the Postal Service, which receipt shall indicate the date of mailing and the name and address of the mailer. Said notice shall further advise that, should the permittee fail to comply with the requirements of the notice by the established deadline, the work necessary to achieve compliance may be done by the city or a designated contractor and the expense thereof shall be charged to the permittee. Issuance of a notice to comply shall not be a prerequisite to taking any other enforcement action.

2. If the city finds any existing conditions not as stated in the application or approved plans, the Stormwater Manager and/or Stormwater Inspector may issue a stop-work order requiring that all construction activities halt when a construction site is in violation of this section. The stop-work order may apply to all construction activity on the subject property which may be directly or indirectly related to site drainage and which is being performed pursuant to any permits, licenses, franchises or contracts issued or approved by the city. The stop-work order may order a work stoppage on all construction activity on buildings or structures and appurtenances thereto, including but not limited to building, electrical, plumbing, mechanical, street work, storm sewers, sanitary sewers, gas lines, and all utilities including but not limited to gas, electric, telephone and cable television. The Planning and Development Services Department may also suspend or revoke any Sediment and Erosion Control, site preparation, grading, erosion control, earth change, construction, or any other permit when any part of this section is violated.

3. The violation of any provision of this section, upon conviction, shall be punished by a fine not to exceed \$1,000, plus court costs as set by the city. Each day or any portion

of a day during which any violation of this section shall continue shall constitute a separate offense.

4. Other actions described in the penalties and administrative remedies section of this chapter may be taken by the city, including but not limited to suspension of MS4 access, water supply severance, injunctive relief, abatement, remediation, and restoration of lands. The permittee shall be responsible for the costs incurred by the city. Failure to pay will result in the city seeking recovery of costs and damages pursuant to the conditions set forth in this chapter.

(m) Changes to plans. All proposals to modify the approved Sediment and Erosion Control Plans must be submitted in writing to the Planning and Development Services Department. No grading or any type of work in connection with any proposed modification shall be initiated without prior written approval of the Planning and Development Services Department.

(n) Inspection and supervision. The city shall conduct construction site inspections upon receiving a complaint of violation of this section and as needed to evaluate compliance with this section. The permittee shall notify the Stormwater Manager and/or Stormwater Inspector when there are any departures from the approved Sediment and Erosion Control Plan and at the following stages:

1. Upon completion of installation of perimeter sediment and erosion controls;
2. At least 24 hours but not more than 72 hours (exclusive of Saturdays, Sundays and holidays) prior to commencing initial grading or land disturbing activities;
3. When construction and land disturbing activities are halted for a period of 30 days or more;
4. At least 24 hours but not more than 72 hours (exclusive of Saturdays, Sundays and holidays) prior to when construction or land disturbing activities shall recommence after being halted for a period of 30 days or more;
5. Upon submitting a notice of termination to ODEQ in compliance with any OKR10 permit requirements; and
6. Upon completion of final grading, permanent drainage and erosion control facilities including established ground covers and planting, and all other work of the permit.

(o) Maintenance during and after construction. For any property on which grading or other work has been done, pursuant to a Sediment and Erosion Control Permit granted under the provisions of this section, the permittee or owner or an agent of the owner shall inspect all sediment and erosion control measures and other protective measures identified in the Sediment and Erosion Control Plan at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater and shall maintain and repair all sediment and erosion control measures, graded surfaces and erosion control facilities, drainage structures or means and other protective devices, plantings, and ground

cover installed while construction is active. After construction is complete, the owner or their agent shall continue to regularly inspect the vegetation until adequate turf establishment or other suitable vegetative cover is established.

§ 44-815A POST-CONSTRUCTION STORMWATER IMPACTS; MINIMIZATION REGULATIONS AND REQUIREMENTS; COMPLIANCE PROCEDURES.

(A) The following post-construction stormwater impact provisions are intended to encourage:

(1) The purpose of this section is to address the design, construction, operation and maintenance requirements of stormwater drainage systems within the city to reduce or eliminate post-development adverse stormwater quality and quantity impacts to the Municipal Separate Stormwater System (MS4).

(2) Development design, construction and post-construction operations and maintenance of stormwater drainage systems shall be performed in such a manner so that adverse stormwater quality and quantity impacts to the stormwater drainage systems and receiving streams both on the subject property and on offsite properties are avoided, reduced or eliminated. Adverse stormwater quality and quantity effects for the purposes of this section includes increased flood elevations, increased velocity of floodwaters, erosion, siltation, sedimentation, reduced base flow, pollution or degradation of water quality.

(3) Stormwater drainage systems for the purposes of this section include any facility, structure, improvement, development, equipment, property or interest therein, including structural and nonstructural elements, which are made, constructed, used or acquired for the purpose of collecting, containing, storing, conveying, filtering, treating, infiltrating and controlling stormwater. This includes, but is not limited to detention facilities, retention facilities, sediment basins, ponds, lakes, engineered open channels, natural channels, floodplains, creeks, storm sewers, conduits, pipes, borrow ditches, swales, roadways, infiltration systems, rain gardens and bio-retention filters.

(4) Every development shall be provided with a stormwater drainage system designed by an engineer registered in the state, adequate to serve the development, and otherwise shall meet approval requirements of the officials having jurisdiction. The design shall meet this section and the City of Spencer Engineering Design Criteria Manual and other City of Spencer criteria and codes where applicable.

(5) The stormwater drainage system shall be designed so that property owners located downstream from and upstream from the development shall not be injuriously affected by the construction, operation or maintenance of such system.

(6) Proof of compliance.

(a) If a proposed development will disturb an existing wetland, the developer shall provide to the city a written statement from the U.S. Army Corps of Engineers that the development plan fully complies with all applicable federal wetland regulations as established in the Federal Clean Water Act.

(b) If the city obtains credible information regarding threatened or pending regulatory enforcement action related to an environmental condition of the property to be developed, or an environmental impact related to the development plan, then the Planning and Development Services Department may require the developer to provide to the city written statements from such governmental agencies as the city may designate as having related jurisdiction based upon the nature of the threatened enforcement action or environmental impact. Said statements shall verify that the development plan fully complies with environmental regulations within the jurisdiction of the writing agency. If the developer, after a diligent effort, is unable to obtain such written verifications from one or more of the designated agencies, the developer shall at least provide to the city a written verification from said agency that the city's approval of the development plan will not interfere with a threatened or pending environmental enforcement action of said agency. All required written statements shall be provided to the Planning and Development Services Department prior to the scheduling of the hearing for the project development plan.

(7) Construction of the development including stormwater drainage systems shall be performed in compliance with City of Spencer Engineering Design Criteria and other City of Spencer construction criteria and code requirements where applicable.

(8) Operations responsibility of the development stormwater drainage system shall be detailed in the covenants language on platted developments, on easement language for stormwater drainage systems in dedicated easements, or shall be borne by the property owner for stormwater drainage systems on private property.

(9) Maintenance responsibility of the development stormwater drainage system shall be detailed in the covenants language on platted developments, on easement language for stormwater drainage systems in dedicated easements or shall be borne by the property owner for stormwater drainage systems on private property.

(10) In the event that the owner or responsible party fails to properly operate or maintain the stormwater drainage system such that negative stormwater quality or quantity impacts to stormwater drainage systems and/or receiving streams either on the subject property or on offsite properties occurs or is imminent, the city or its designated contractor may enter the property to perform required operations or maintenance, and the cost shall be paid by the owner of responsible party.

(B) 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.

(C) Construction debris.

(1) Construction debris shall not be allowed to blow off the site of origin.

(2) Trash containers of sufficient size, but not less than four feet wide by four feet deep by four feet high, shall be located on each construction site no later than the time the rough plumbing is ready for inspection.

(D) 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 purpose of compliance with divisions (A) through (C) of this section.

(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 ODEQ, then the facility operator listed on the notice shall be responsible for compliance with divisions (A) through (C) of this section.

§ 44-816 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. All grading and excavation of silt and sediment of ditches within the city's and/or state's right-of-way shall be executed by the city. 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.

§ 44-816A REQUEST FOR VARIANCE.

(A) The City Council shall hear and render judgment on requests for variances from the requirements of this chapter.

(B) The variance request must be received by the Planning and Development Services Department within 15 days from the date of the notice of violation.

(C) The Planning and Development Services Department shall maintain a record of all actions involving a request for variance and shall report variance decisions to ODEQ and EPA upon request.

(D) Upon consideration of the factors involved and the intent of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.

(E) Any person or persons aggrieved by the decision of the City Council may appeal such decision in the courts of competent jurisdiction.

§ 44-816B MONITORING OF DISCHARGES.

(A) The Stormwater Manager and/or Stormwater Inspector shall be permitted to enter facilities, premises, watercourses and waterways subject to regulation under this chapter for the purpose of observing, measuring, sampling, testing and inspecting as often as may be necessary to determine compliance with chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(B) Facility operators shall allow the Stormwater Manager and/or Stormwater Inspector ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES or OPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law. Any permits, pollution prevention plans, or other documents regarding a facility's stormwater discharge shall be made available to the Stormwater Manager and/or Stormwater Inspector when requested.

(C) The Stormwater Manager and/or Stormwater Inspector shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(D) The Stormwater Manager and/or Stormwater Inspector has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(E) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Stormwater Manager and/or Stormwater Inspector and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(F) Unreasonable delays in allowing the Stormwater Manager and/or Stormwater Inspector access to a permitted facility is a violation of a Stormwater Discharge Permit and of this chapter. A person who is the operator of a facility with a NPDES permit or an OPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

(G) If the Stormwater Manager and/or Stormwater Inspector has been refused access to any part of the premises from which stormwater is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

§ 44-817 RECORD KEEPING.

(A) Duration. Every person and industry shall retain and make available to the Director for inspection and copying, all records and information required to be retained under this chapter, or order issued hereunder. The person or industry shall retain these records for a period of no less than five years after an initial request by the Director. This retention period shall be automatically extended for the duration of any litigation concerning compliance with this chapter, or where the industry or person has been specifically notified of a longer retention period by the Director.

(B) Fraud and false statements. Reports and other documents required to be submitted or maintained under this chapter, 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.

§ 44-818 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 Director within 15 days of request.

(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 Director upon request.

(C) Spills. Any person or industry shall, at the earliest possible time but, in any case, no later than one hour from discovery, orally report to the Director 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 and the like. Written notification shall also be made to the Pretreatment/Stormwater Department of the city within five days of the

discovery of the spill. If the spill is contained, notification to the Director 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) Reports. All persons or industrial facilities may be required to provide other reports deemed necessary by the Director to monitor, maintain and ensure compliance with this chapter.

§ 44-819 COMPLIANCE MONITORING REQUIREMENTS.

(A) Stormwater sampling event criteria. When the Director requires that a sample of a storm event be obtained, the following criteria must be met:

- (1) The depth of the rainfall must be greater than one-tenth inch or its equivalent;
- (2) The sample storm event must be preceded by at least 72 hours of less than one-tenth inch of rainfall; and
- (3) All point sources from the premises or industry required to sample must be sampled, unless otherwise specified.

(B) Sampling. When the Director has reason to believe that any person or industrial facility is violating this chapter, 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 Director for review.

(C) Illicit discharge sampling. When the Director has cause to believe that any discharge is an illicit discharge, the Director may obtain either a grab or composite sample and analyze the discharge. If the Director determines that the discharge is an illicit discharge, then the Director may fully recover all cost of the sampling and analysis from the person or industrial facility. When the discharge is likely to contain illicit discharges on a recurring basis, the person or industrial facility may be required by the Director to conduct monitoring activities at its expense.

(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 handling the sample in the field and in the laboratory;
- (6) Type of sampling equipment used;
- (7) Type of preservation; and
- (8) Certification of sample authenticity.

A copy of the Chain-of-Custody will remain with all sample analyses sent to the City of Spencer 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 Director 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 Director.

§ 44-820 REQUIREMENTS FOR BEST MANAGEMENT PRACTICES.

(A) Implementation. If the Director 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 chapter or, causes a violation of the city's OPDES Municipal Storm Water Discharge Permit, a BMP 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 Director 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. These measures shall take the form of BMPs.

§ 44-821 INSPECTIONS AND SAMPLING.

(A) Right of access. The Director or the Director's authorized representative 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 chapter.

(B) Inspections. The Director or the Director's authorized representative 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.

§ 44-822 ADMINISTRATIVE ENFORCEMENT REMEDIES.

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

(A) Investigation. The Director or authorized representative may investigate any premises where there is reason to believe that there may be a failure to comply with the requirements of this chapter.

(B) Notice of violations. Whenever the Director determines that a violation of this chapter has occurred or is occurring, the Director 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 Director may require, within 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 Director 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 Director 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 Director finds that a person or industry has violated or continues to violate this chapter or orders issued hereunder, the Director 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, 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 Director finds that a person or industry is violating provisions of this chapter, or any order issued hereunder, or that past violations are likely to recur, the Director 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 Director at any time in order to insure compliance with this chapter.

(D) Administrative fines.

(1) When the Director finds that a user has violated or continues to violate any provision of the chapter, or order issued hereunder, the Director, upon good cause shown, may impose an administrative fine against such user in an amount not to exceed \$1,000. 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 Director within 15 days after such notice is served.

(3) Failure to submit payment for an administrative fine within 15 days shall be considered a violation of this chapter.

(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 chapter. Notwithstanding any other provision of this chapter, the Director may require any person and or industry found to have violated any provision of this chapter, or orders issued hereunder, to reimburse the city for any goods or services 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. The city may pursue its right of action to recover all such costs, by utilizing any and all reasonable methods, including installment payment administered by the Finance Department. The city may recover the costs incurred by adding them to the utility bill of the violator or filing a lien on the subject property.

(F) Water supply severance. Whenever a person has violated, or continues to violate any provision of this chapter, 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 Director pursuant to this section may appeal the action as provided in this section.

(1) The initiation of an appeal shall be in writing and filed with the Director no later than 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 Director, the Director shall conduct any necessary investigation into the basis of the appeal and hold a hearing within 30 days of receipt. However, upon review of the notice of appeal, if the Director determines that the basis of the appeal is patently frivolous or filed only for purposes of delay, then the Director may deny the appeal without a hearing. Upon the Director'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 Director may modify or withdraw the notice, fine or order. If the Director fails to act on the appeal within 30 days of concluding the hearing, the appeal shall be deemed denied. Any ruling, requirements, decisions or actions of the Director on appeal shall be final and binding, unless appealed to the City Council.

(4) Any person aggrieved by an appeal decision of the Director may perfect an appeal to the City Council by filing a written notice of appeal with the City Clerk and the Director within 15 days from the date of the action by the Director. Such notice shall specify grounds for the appeal. A hearing on the appeal shall be commenced by the Council no later than 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 Director 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.

§ 44-823 VIOLATIONS, INJUNCTION AND CRIMINAL PROSECUTION.

(A) Injunctive relief. Whenever a person or industrial facility has violated or continues to violate the provisions of this chapter, or orders issued hereunder, the Director, with the advice and counsel of the City Attorney and the approval of the Manager, 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 chapter, or any order issued hereunder. Any person convicted of a violation of this chapter, or any order issued pursuant to this chapter, shall be guilty of a misdemeanor offense and shall be punished by a fine of not more than \$200, excluding costs, fees and assessments, or by imprisonment in the City Jail for a period not exceeding ten days, 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 § 44-822 (A) and (B) of this chapter shall not be exclusive remedies. The city reserves the right to take any combination of actions against a violator of this chapter. 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, and the cost of any actual damages incurred by the city.

§ 44-824 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, §§ 24A.1, et seq.) or to other government agencies unless the industrial facility or industrial activity 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.

Section 2. Repealer. All former ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Emergency. It being immediately necessary for the preservation of the public health, peace and safety of the City of Spencer and the inhabitants thereof, an

emergency is hereby declared to exist by reason whereof, this Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

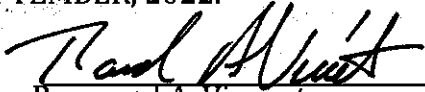
PASSED AND APPROVED this 15 day of September, 2022.


Frank Calvin - Mayor

ATTEST:


Cecilia Taft - City Clerk

APPROVED AS TO FORM THIS 15 DAY OF SEPTEMBER, 2022.


Raymond A. Vincent

**RESOLUTION OF PROJECT SPONSORSHIP FOR A
TRANSPORTATION ALTERNATIVES PROGRAM
APPLICATION AND MAINTENANCE COMMITMENT**

A RESOLUTION DECLARING THE ELIGIBILITY OF THE CITY OF SPENCER TO SUBMIT AN APPLICATION TO THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR USE OF TRANSPORTATION ALTERNATIVES PROGRAM FUNDS SET FORTH BY IIJA FOR THE SIDEWALKS FOR 23RD STREET, KRINGLE PARK AND 36TH STREET PROJECTS IN SPENCER OKLAHOMA AND AUTHORIZING THE MAYOR TO SIGN THIS APPLICATION.

Whereas, the City of Spencer, Oklahoma, is submitting an application to the Oklahoma Department of Transportation for transportation alternatives program funds in the amount of \$ _____ set forth by MAP-21 and as outlined in ODOT's transportation alternatives program guidance & application packet for 2017 and 2018; and

Whereas, the City of Spencer, Oklahoma, is participating as an eligible project sponsor in the Oklahoma Department of Transportation's transportation alternatives program set forth by IIJA; and

Whereas, federal monies are available under a transportation alternatives program set forth by IIJA, administered by the state of Oklahoma, Department of Transportation, for the purpose of creating and promoting the planning and development of active transportation facilities and programs in Oklahoma; and

Whereas, the City of Spencer, Oklahoma, acknowledges availability of the required local match of no less than 20%; and,

Whereas, after appropriate public input and due consideration, the governing body of City of Spencer, Oklahoma, has recommended that an application be submitted to the state of Oklahoma for the <project name> project.

Now, therefore, be it resolved by the governing body of the City of Spencer, Oklahoma:

Section 1. That the City of Spencer, Oklahoma, does hereby authorize Mayor to submit an application to the Oklahoma Department of Transportation for transportation alternatives program funds set forth by IIJA on behalf of the citizens of City of Spencer, Oklahoma.

Section 2. That the City of Spencer, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the <project name> project is available.

Section 3. That the City of Spencer, Oklahoma, hereby assures the Oklahoma Department of Transportation that sufficient funding for the operation and maintenance of the <project name> project will be available for the life of the project.

Section 4. That the City of Spencer, Oklahoma, hereby assures the Oklahoma Department of Transportation that the City of Spencer, Oklahoma, will have title or permanent easement to the <project name> project by the time of project letting, if necessary.

Section 5. That the chief project sponsor of City of Spencer, Oklahoma, is authorized to sign the application to the Oklahoma Department of Transportation for transportation alternatives program funds set forth by IIJA on behalf of the citizens of City of Spencer, Oklahoma. The chief project sponsor is also authorized to submit additional information as may be required and act as the official representative of the City of Spencer in this and subsequent related activities.

Adopted and passed by the governing body of the City of Spencer, Oklahoma, this
____ 15th _____ of September 2022.

Chief Project Sponsor: Mayor - City of Spencer – Frank Calvin (print)

(sign)

ATTEST: *Cecilia Doyt*
City Clerk