

CHAPTER XVI. UTILITIES

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ARTICLE 1. GENERAL PROVISIONS & UTILITY ADMINISTRATION**16-101. Definition.**

For the purpose of this Chapter, the word "utility" shall be construed to mean and include water, wastewater, sanitary sewer, stormwater, and/or any other utility service furnished by the City to consumers thereof.

(Code 1970, 27-1)

16-102. Scope of Chapter Provisions.

All pertinent provisions of this Chapter are hereby made a part of the terms and conditions whereby the City shall furnish any utility service to any person; or whereby the City shall make any utility connections, or perform any work of any kind in connection with the furnishing of any utility service.

(Code 1970, 27-2)

16-103. Service to Comply with Technical Regulations.

Any utility service furnished under the provisions of this Chapter shall be in accordance with and compliance with all applicable technical provisions of this code, State law and City ordinances, rules and regulations.

(Code 1970, 27-3)

16-104. Termination for Noncompliance with Provisions.

The City shall have the right to disconnect or refuse to connect or reconnect any utility service which does not meet the applicable provisions of this code, State law or City ordinances, rules or regulations.

(Code 1970, 27-4)

16-105. Liability of City for Damage.

The City shall not be liable for any damage to the property of any consumer of any utility service furnished by the City due to back flow of the sanitary sewer system, failure of the sanitary sewer or water supply, interruption of service or any other cause outside the direct control of the City.

(Code 1970, 27-5)

16-106. Sale of Service by Customer.

It shall be unlawful for any person to resell any utility service obtained from the City to others except by units of local government or recognized and licensed utility companies, and then only by special arrangement with the City.

(Code 1970, 27-6)

16-107. Temporary Interruption of Service.

The City reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for maintenance and improvement to the utility system, affected consumers thereof will be notified as circumstances permit.

(Code 1970, 27-7)

16-108. Utility Service; Application Required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public utility line or appurtenance thereof without first obtaining a written permit from the City. Each dwelling house owner who shall be required or desire to make a utility service connection shall first make application in writing therefor to the Building Official, who shall issue a permit therefor.

(Code 1970, 27-9, 27-79; Code 2014)

16-109. Same; Permit.

Upon the approval of the application for any utility service, the Codes Clerk shall issue a permit therefor.

(Code 1970, 27-10)

16-110. Same; Use Without Permit.

It shall be unlawful for any person not having a permit to use any utility service offered by the City or to make any connection thereto.

(Code 1970, 27-11)

16-111. Same; Use Contrary to Permit.

Any person having a permit from the City for the use of any utility service offered by the City who shall use such utility service for any purpose other than mentioned in such permit shall be deemed guilty of a misdemeanor.

(Code 1970, 27-12)

16-112. Same; Use Assumed.

All premises connected to any utility service of the City shall be assumed to be using such utility service and the owner or occupant shall be charged therefore so long as such premises shall remain connected with the utility service.

(Code 1970, 27-13)

16-113. Same; Restricted to One Applicant.

It shall be unlawful for any person who obtains any utility service from the City to habitually permit any other person to use such utility service for another structure.

(Code 1970, 27-14; Code 2014)

16-114. Notification and Inspection, Approval.

(a) The applicant for the utility service shall notify the Utilities Department when the water and/or sanitary sewer is ready for inspection and connection to the public system. All connections shall be made under the supervision of the Utilities Department Staff.

(b) All completed work for the installation of utility service lines shall be inspected by the Utility Department staff, and no backfill shall occur unless and until inspection and approval of the work by the City.

(Code 1970, 27-83; Ord. 1397, Art. IV, Sec. 10)

16-115. Same; Costs.

All costs and expense incident to the installation and connection of the utility service shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the utility service.

(Ord. 1397, Art. IV, Sec. 3)

16-116. Separate Connections.

Single family residential structures shall have a separate water meter and sewer connection to the City's mains per building or lot of record. Residential structures with more than one and up to four (4) units may have a single water meter or separate water meters for each unit but shall have a separate sewer connection for each unit to the City's mains.

Each multi-family residential building or structure with more than four (4) dwelling units shall have one water meter and one sewer connection to the City's mains. Each commercial or industrial development on a single lot of record shall have a separate water meter and sewer connection to the City's mains, but may have separate connections for multiple buildings.

(Code 1970, 27-15, Ord. 2338)

16-117. Connections to Service.

Connections for any utility service furnished by the City shall be made only by the City under the supervision of the Utilities Director, and/or his designee.

(Code 1970, 27-16)

16-118. Consumers to Maintain Own Service.

All persons taking any utility service from the City shall maintain their own service pipes, from the building to the meter, and protect the same to include the meter from frost at their own risk and expense, and shall prevent any damage to meter pits or to meter radio transponders.

(Code 1970, 27-18)

16-119. When Payment Due.

All bills for utility services furnished by the City shall be due and payable prior to midnight of the 20th day following the date of such bill. Should the due day fall on a Sunday or holiday observed by the City, the next following business day shall be allowed as a day of grace for payment.

(Ord. 1614, Sec. 6)

16-120. Penalty for Delinquent Payment.

Any person who fails, refuses or neglects to pay the billing for any utility service shall be subject to a charge equal to five percent (5%) of the amount of such bill.

(Ord. 1234, Sec. 2; Code 1989)

16-121. Disconnection for Nonpayment.

In the event bills for utility services shall not be paid when due, the City shall have the right to disconnect and discontinue utility services furnished by the City to the consumer so in arrears as provided in Section 16-122. In addition to the notice provided by Section 16-122, and on or about the 29th day

after the billing date of the utility bill or upon conclusion of the hearing, if any is requested as provided for in Section 16-122, whichever is later, the City shall again give written notice of delinquency delivered to the premises and affixed or hung on the door notifying the customer that unless the utility bill is paid immediately the service will be terminated and disconnected the following day. The termination notice fee for such service shall be established by the City Council which will be added to the following month's utility billing. In the event service is terminated and disconnected and thereafter the amount of the bill and all other related penalties and charges are paid and security deposits, if any, paid or upon compliance with the terms agreed upon by the City at or before hearing are fulfilled, there shall be an additional Water Reconnect Fee charged as approved by the City Council to reconnect service.

(Ord. 1696; Ord. 2080; Ord. 2225)

16-122. Delinquent Accounts.

Water or other utility service shall be terminated for nonpayment of service fees or charges as follows:

(a) A delinquency and termination notice shall be issued by the Utility Billing Clerk within ten (10) days after the delinquency occurs and mailed to the customer at his or her last known address.

(b) The notice shall state:

(1) The amount due, plus late payment charge;

(2) That service will be terminated if the amount due is not paid within nine (9) days from the date of the notice;

(3) That the customer has the right to a hearing;

(4) That the request for a hearing must be in writing and filed with the City Clerk no later than three (3) days prior to the date for termination of service.

(c) Upon receipt of a request for hearing, the City Clerk shall advise the customer of the date, time and place of the hearing which shall be held within three (3) working days following receipt of the request.

(d) Following the hearing, if the hearing officer shall find that service should not be terminated, then notice of such finding shall be presented to the Utility Director. If the officer finds that service should be terminated, an order shall be issued terminating service five (5) days after the date of the order. The customer shall be notified either in person or by mailing a letter to his last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The hearing officer has a right, for good cause, to grant an extension, not to exceed ten (10) days, for the termination of such service.

(Code 1989)

16-123. Voluntary Discontinuance of Service.

Consumers who wish to discontinue the use of any utility service furnished by the City shall give notice thereof to the Utility Billing Clerk. Failure to do so shall render such consumers liable for the payment of all bills until such notice has been given.

(Code 1970, 27-43)

16-124. Security Deposits.

(a) Security deposits for utility services furnished by the City shall be as approved by the City Council for the following services:

- (1) For residential services;
- (2) For all other users, to include but not limited to commercial and industrial users, the amount of such deposit shall be the estimated amount of one (1) month's utility billing, but in no such case shall the amount of such deposit be less than the fee as established by the City Council for residential services;
- (3) Security deposits for new residential customers may be waived by the Finance Director:
 - (A) Upon receipt of a letter from another utility stating that the new customer had been a utility customer of that company for more than one (1) year prior to the date of that letter and had paid all utility bills prior to the due date during a period of at least one (1) year prior to the date of the letter;
 - (B) Receipt of a duly executed and acknowledged guaranty from a person who has been a utility customer of the City for at least one (1) year that he or she will guarantee payment of the new customer's bill if the new customer does not pay his or her utility bill by the due date thereof;
 - (C) The new customer has been a prior customer of the City and has a good payment history.
- (4) If a security deposit has been waived as provided in Subsection (3) above and the new customer becomes delinquent or, if demand is made upon a guarantor for payment of the new customer's delinquent bill by a guarantor, then and in either of these events the new customer will be required to establish a security deposit with the City.

(Ord. 1615, Sec. 1)

16-125. Utility Bill Credit.

Subject to the restrictions herein set forth, there is hereby granted to eligible persons as defined in Section 16-126, a credit of the total of each month's combined water, wastewater treatment and refuse bill (utility bill) which credit shall be deducted from the utility bills of such persons.

(a) 20 percent of the total of each month's water and wastewater treatment bill shall be deducted from the utility bill of such eligible persons.

(b) A sum of \$2 will be deducted from each month's refuse bill for eligible persons provided the refuse contractor makes this credit available to the City. (Ord. 1241)

16-126. Same; Eligibility

Eligible persons are defined for the purposes of this Article as those natural persons who meet the following criteria:

- (a) They are residents and citizens of the City;

- (b) The head of the household is at least 65 years of age;
 - (c) The combined income of all occupants of the residence over 21 years of age is less than the SSI or as otherwise established by the City Council;
 - (d) They are owning or renting the residence and receiving utility bills from the City in their own name.
- (Ord. 1705, Sec. 1)

16-127. Same; Non-Eligibility.

No utility credit shall be allowed:

- (a) For any eligible person in any month on the amount billed for water usage in excess of 4,000 gallons;
 - (b) For any business or commercial enterprise or on any bill in the name of a firm, partnership, corporation or joint venture;
 - (c) To any person who ceases to meet the eligibility requirements herein;
 - (d) For the cost of any utility service not received from the City.
- (Ord. 1237)

16-128. Same; Application.

All persons who seek eligibility for the utility credit granted herein shall annually make application to the Utility Billing Clerk on forms provided by the City for that purpose and shall furnish such information as required and necessary to establish their eligibility. All applications shall be reviewed and approved or disapproved as directed by the Finance Director.

(Ord. 1237, Sec. 4)

16-129. Same; Commencement.

All credits hereunder shall commence effective at the next billing cycle after approval of eligibility by the City.

(Ord. 1237, Sec. 5)

16-130. Same; False, Misleading Information.

The amount of all utility credits granted to any person based on false or misleading information submitted to the City by such person shall be refunded to the City. After demand, should such person refuse to refund such amount to the City, the amount shall be added to the utility bill at the direction of the City Manager.

(Ord. 1237, Sec. 5)

16-131. Same.

Any person who submits false or misleading information to the City for purposes of establishing eligibility for the credit granted herein, shall be guilty of a violation of this code.

(Ord. 1237, Sec. 7)

16-132. Injure/Tamper with Water or Sanitary Sewer Systems.

It shall be unlawful for any person other than a duly authorized employee of the City to:

(a) Alter, change, deface, remove, tamper or interfere with, open or in any other way molest any water meter, valves or mains in the City, or

(b) Alter, change, deface, remove, tamper or interfere with, open or in any other way molest any sewer mains, markers, manholes structures, appurtenances, or equipment which is part of the sanitary sewer system.

(Code 1970; Ord. 2169; Ord. 2220; Code 2014)

16-133. Violations; Costs and Fines.

(a) Any person found to be in violation of any provision of this Chapter, except Section 16-328, shall be subject to the General Penalty provisions of Article I Administration, Section 1-116.

(b) Any person in violation of any of the provisions of this Chapter shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation. The City shall have the right to bill for expenses on the person's monthly utility bill or billed through Accounts Receivable.

(Ord. 1397, Art. VIII, Secs. 1:3; Ord. 1829; Ord. 2220)

ARTICLE 2. WATER SERVICE - RATES, CHARGES AND REGULATIONS**16-201. Water Service Connection.**

Fee for service connection after the contract for service connection has been entered into and before the connection is made, the owner shall pay fees by meter size as approved by the City Council to tap the main, the installation of the service pipe from the main to the meter or to the first valve, whichever is the least distance, with the materials to be furnished and the work done by the City. The City Council shall establish a Water Connect Fee to turn water service on.

(Ord. 1614, 1829, 2024, 2080, 2225)

16-202. Cut-Offs.

A cut-off valve shall be installed for each service line for each premises served and at such place as the Utilities Director may direct.

(Code 1970, 27-30)

16-203. Water Rates & System Impact Fee

The City Council shall establish water rates and service fees for customers of the City water system as follows:

- (a) A Service Charge based on meter size for zero usage.
- (b) The charge for each 1,000 gallons of water used.
- (c) A System Impact Fee for each connection based on meter size.

Wholesale Rates: in addition to the service charge for zero usage, wholesale rates shall be as established by the City Council.

A separate and additional connection fee as established by the City Council shall be charged for each new connection made for service to the Lake of the Forest Water System after October 25, 2007 for any lot not subject to the Lake of the Forest Water System Improvement Benefit District assessment and not identified as a buildable lot in that benefit district.

(Ord. 1775, 1977, 2024, 2072, 2156, 2174, 2193, 2240, 2265, 2297, 2328, 2349, 2378)

16-204. Same; Unmetered Fire Sprinkler Service.

A monthly charge as established by the City Council will be charged to customers that have an unmetered fire sprinkler system connected to the water lines of the City. The monthly charge shall be in lieu of any hook-up or installation charge for connecting the sprinkler system to the City water lines.

(Ord. 1614; Ord. 2193; Ord. 2240; Ord. 2265)

16-205. Cross Connection Control; Purpose.

It shall be unlawful for any person to establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private water supply, or any source of contamination may enter the regular public water supply of the City unless the source is approved by the City Council and the Kansas Department of Health and Environment.

(Ord. 1647, Sec. 1)

16-206. Same; Cross Connections Prohibited.

It shall be unlawful for any person to establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private water supply, or any source of contamination may enter the regular public water supply of the City unless the source is approved by the City Council and the Kansas Department of Health and Environment.

(Ord. 1647, Sec. 2)

16-207. Same; Protective Backflow Preventers Required.

Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow backsiphonage may occur and where there is a hazard of contamination of the potable water supply system.

(Ord. 1647, Sec. 3)

16-208. Same; Inspection.

The Utilities Director or other designate of the Utility Department or City shall have the right of entry into any building or premises in the City as frequently as necessary in order to ensure that plumbing has been installed in a manner as to prevent the possibility of contamination of the public water supply of the City.

(Ord. 1647, Sec. 4)

16-209. Same; Protection from Contaminants.

Pursuant to the authority given under home rule powers and K.S.A. 65-163a, the City may refuse to deliver water to any premises where a condition exists which might lead to the contamination of the public water and may continue to refuse to deliver water until the condition is corrected to the satisfaction of the City. In addition, the City may immediately terminate water service to a premise where a backflow or backsiphonage condition exists which may be hazardous to the health of customers served by this public water supply system of the City.

(Ord. 1647, Sec. 5)

16-210. Same; Backflow and Backsiphonage Regulations.

There is hereby incorporated by reference for the purpose of regulating cross connections between the public water supply and any sources of contamination that certain manual entitled, "Manual of Regulations Regulating Backflow and Backsiphonage of Contaminants Due to Cross Connections for the City of Bonner Springs, 1993 Edition", prepared, compiled, published and promulgated by the City of Bonner Springs, Kansas. At least one (1) copy of the manual shall be marked or stamped, "Official Copy as Adopted by Ordinance No. 1647", and to which shall be attached a copy of this Article, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1647, Sec. 6)

16-211. Water Conservation; Purpose.

The purpose of Sections 16-211:220 is to provide for the declaration of a water supply emergency and the implementation of voluntary and mandatory water conservation measures throughout the City in the event such an emergency is declared. The Governing Body approved a water conservation plan (policy GB-13-02) to be in compliance with Kansas Department of Health and Environment requirements.

(Code 1989; Code 2014)

16-212. Same; Definitions.

(a) “Water” shall mean water available to the City for treatment by virtue of the City’s water rights, water supply, water supply contracts or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(b) “Customer” shall mean the customer of record using water for any purpose from the City’s water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(c) “Waste of Water” includes, but is not limited to (1) permitting water to escape down a street, roadway or other surface intended for vehicle driving purposes, and/or any gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.

(d) The following classes of uses of water are established:

Class 1. Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2. Water used for any commercial, agricultural or industrial purposes, except water actually necessary to maintain the health and personal hygiene of bona fide employees of such businesses or interests while such employees are engaged in the performance of their duties at their place of employment.

Class 3. Domestic usage, other than that which would be included in either Classes 1 or 2.

Class 4. Water necessary only to sustain human life and the lives of domestic livestock pets and maintain standards of hygiene and sanitation. (Code 1989)

16-213. Same; Declaration of A Water Emergency.

In the event that the Governing Body of the City or the City’s designated official determines that the City’s water supply may be the subject to a shortage in supply or the Governing Body of the City determines there is a need for conservation of City’s water resources for any reason, the City may begin the progressive three (3) stage water conservation program by declaring a water watch as described in Subsection (a) or in times of need and/or duress, the Governing Body of the City may choose to declare any Section of the program described in this Section in effect at any time.

(a) Stage 1: Declaration of Water Watch. Whenever the Governing Body of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official City newspaper.

(b) Stage 2: Declaration of Water Warning. Whenever the Governing Body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning

shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official City newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the recommended restrictions on nonessential uses may be extended to private wells within the City limits.

(c) Stage 3: Declaration of Water Emergency. Whenever the Governing Body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the Governing Body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official City newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the mandatory restrictions on water use may be extended to private wells within the City limits.

(Code 1989)

16-214. Same; Voluntary Conservation Measures.

Upon the declaration of a water watch or warning as provided in Section 16-213(a) or Section 16-213(b), the Mayor (or City Manager) is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:

- (a) Class one uses of water.
- (b) Waste of water.

(Code 1989)

16-215. Same; Mandatory Conservation Measures.

Upon the declaration of a water supply emergency as in Section 16-213(c), the Mayor (or the City Manager or authorized City official) is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following conservation measures:

- (a) Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;
- (b) Restrictions on the uses of water in one or more classes of water use as described in Section 16-212(d) wholly or in part;
- (c) Restrictions on the sales of water at coin-operated facilities or sites;
- (d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- (e) Complete or partial bans on the waste of water; and
- (f) Any combination of the measures in Subsection (a) through (e) as the Governing Body of the City or authorized City official may deem appropriate and/or necessary.

(Code 1989)

16-216. Same; Emergency Water Rates.

Upon the declaration of a water supply emergency as provided in Section 16-213(c), the Governing Body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

- (a) Higher charges for increasing usage per unit of use (increasing block rates);
- (b) Uniform charges for water usage per unit of use (uniform unit rate); or
- (c) Extra charges in excess of a specified level of water use (excess demand surcharge).

(Code 1989)

16-217. Same; Regulations.

During the effective period of any water supply emergency as provided for in Section 16-213(c), the Mayor (or City Manager or Utilities Director or other authorized City official) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this Article, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the Governing Body at its next regular or special meeting. (Code 1989)

16-218. Same; Violations, Disconnections and Penalties.

(a) If the Mayor, City Manager, Utilities Director, or other authorized City official or officials charged with implementation and enforcement of this Article or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections 16-215 or 16-217, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and/or any other person known to the City to be responsible for the violation and/or the correction of said violation shall be provided with either actual or mailed notice. Said notice shall describe the violation(s) and order that the noted violation(s) be corrected, cured or abated immediately or within such specified time as the City determines is reasonable for such correction, cure or abatement under the circumstances. In the event the order is not cured within the time period given in the notice, the City may terminate water service to the customer subject to the following procedures:

- (1) The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation(s) and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City Governing Body or a City official designated as a hearing officer by the Governing Body;
- (2) If such a hearing is requested by the customer charged with the violation, the customer shall be given a full opportunity to be heard by the City Governing Body or the City official designated as a hearing officer by the City Governing Body before termination is ordered; and
- (3) The City Governing Body or the City official designated as a hearing officer by the City Governing Body shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to Subsection (a). In the event of subsequent violations, the reconnection fee shall be \$200 for the second violation and \$300 for any subsequent additional violations within a one (1) year period.

(c) Violation of this Article shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal Court of violating the provisions of this Article shall be guilty of a municipal offense. Each calendar day in which a violation is observed shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the Court to serve a definite term of confinement in the City or County jail which shall be fixed by the Court and which shall not exceed thirty (30) days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200. In addition, such customer shall serve a definite term of confinement in the City or County jail which shall be fixed by the Court and which shall not exceed thirty (30) days.

(Code 1989)

16-219. Same; Emergency Termination.

Nothing in this Article shall limit the ability of any properly authorized City official from terminating the supply of water to any or all customers upon the determination of such City official that emergency termination of water service is required to protect the health and safety of the public or for any other emergency as required or authorized by ordinance or as deemed necessity of the City by such City official or the Governing Body of the City.

(Ord. 1693, Sec. 1)

16-220. Same; Severability.

If any provision of this Article is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Article and its applicability to other persons and circumstances shall not be affected thereby.

(Ord. 1693, Sec. 2)

ARTICLE 3. WASTEWATER (SANITARY SEWER) SERVICE- RATES, CHARGES AND REGULATIONS

16-301. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

BOD (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.

Building Sewer shall mean the pipeline from the building to the public sewer.

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial Wastes shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

On-Site Wastewater Treatment System shall mean a private treatment system (septic system).

Person shall mean any individual, firm, company, association, society, corporation, or group.

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Properly Shredded Garbage shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary Sewer shall mean a sewer which carries wastewater and to which storm, surface, and groundwaters are not intentionally admitted.

Sanitary Sewer System shall mean all facilities to collect, pump, treat and dispose of wastewater.

Sewage shall mean the waste matter carried within wastewater.

Sewer shall mean a pipe or conduit for carrying sewage.

Sludge shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five (5) times the average 24 hour concentration or flows during normal operation.

Storm Drain (sometimes termed storm sewer) shall mean a sewer which carries storm and surface waters and drainage but excludes wastewater other than unpolluted cooling water.

Suspended Solids (SS) shall mean solids that either float on the surface of, or are in suspension in wastewater, and which are removable by laboratory filtering.

Wastewater shall mean the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

Wastewater Treatment Plant shall mean any arrangement of devices and structures used to treat wastewater.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. 1397, Art. I, Secs. 1:22; Code 2014)

16-302. Sewer Connection Required.

The owner of a house, building or structure used for human habitation, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at his or her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so, provided that the public sewer is within 200 feet of the property line. An exception to this requirement is permitted when the house, building or structure is served by an operable on-site wastewater treatment system, in such case a connection to the public sewer will not be required until such time as the on-site wastewater treatment system fails.

(Ord. 1397, Art. II, Sec. 4; Ord. 1953; Code 2014)

16-303. Standards.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, joint, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(Ord. 1397, Art. IV, Sec. 6)

16-304. Building Sewer; Elevation.

Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. 1397, Art. IV, Sec. 7)

16-305. Roof, Foundation Drains.

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Ord. 1397, Art. IV, Sec. 8)

16-306. Building and Plumbing Codes to Control.

The connection of the building sewer into the public sanitary sewer shall conform to the requirements of the building and plumbing code or sanitary sewer construction specifications of the City. Any deviation from the prescribed procedures and materials must be approved by the Utility Director before installation.

(Ord. 1397, Art. IV, Sec. 9)

16-307. Sewer System Impact Fee.

A System Impact Fee for each residential, commercial and industrial connection to the City's main shall be paid to the City at the time a building permit is issued in an amount established by the City Council based upon the discharge size or type.

(Ords. 1872, 2081, 2174, 2241, 2264, 2338; Code 2014)

16-308. Wastewater Rates Established.

The service charge per month shall be as established by the City Council. In addition, each contributor shall pay a user charge rate for operation and maintenance including depreciation replacement and debt retirement a rate per 1,000 gallons additional of water (or wastewater) as established by the City Council. For residential customers, the monthly sewer user charges will be based on an average monthly water usage billed during the months of December, January, February and March. Until a residential customer establishes a December, January, February and March average, the monthly user charge shall be either the actual water used or a maximum of 6,000 gallons per month. (Ords. 1971-A 2002, 2023, 2073, 2155, 2174, 2194, 2241, 2264, 2296, 2327, 2350, 2379; Code 2014)

16-309. Meters When Premises Not on City Water.

The quantity of water used upon any premises with a sewer connection or within a sewer district shall be measured by the water meter or meters serving the premises. Provided, however, that if any user with a sewer connection or within a sewer district shall purchase water from a source other than the City's water system, then such user shall, at his or her expense, install and maintain on the premises a water meter or meters satisfactory to the City, which meter shall measure all water received on the premises from all sources and in such case the wastewater rate to be charged such user shall be based upon the aggregate quantity of water received on the premises as measured by the meter or meters.

(Code 1970, 27-38; Code 2014)

16-310. Private Sewer System.

Where a public sanitary sewer is not available under the provisions of Section 16-302, the building sewer shall be connected to an on-site wastewater treatment system that complies with the provisions of this Article.

(Ord. 1397, Art. III, Sec. 1)

16-311. Same; Permit.

Before commencement of construction of an on-site wastewater treatment system the owner shall first obtain a written building, plumbing and electrical permit from the Building Official, and obtain a permit from the Wyandotte County Health Department. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other

information as are deemed necessary. A permit and inspection fee as established by the City Council shall be paid to the City at the time the application is filed.

(Ord. 1397, Art. III, Sec. 2)

16-312. Same; Inspection.

A permit for an on-site wastewater treatment system shall not become effective until the installation is completed to the satisfaction of the Wyandotte County Health Department. The City and the Wyandotte County Health Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City and the Wyandotte County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the City and the Wyandotte County Health Department.

(Ord. 1397, Art. III, Sec. 3)

16-313. Same; Discharge.

(a) The type, capacities, location and layout of an on-site wastewater treatment system shall comply with all recommendations of the Kansas Department of Health and Environment as administered by the Wyandotte County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one (1) acre. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Ord. 1397, Art. III, Secs. 4:5; Ord. 1669, Sec. 1; Ord. 1953)

16-314. Same; Expense.

The owner shall operate and maintain the on-site wastewater treatment facilities in a sanitary manner at all times, at no expense to the City.

(Ord. 1397, Art. III, Sec. 6)

16-315. Same; Additional Requirements.

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Kansas Department of Health and Environment.

(Ord. 1397, Art. III, Sec. 7)

16-316. Old Building Sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test required by the Utilities Department to meet all requirements of this Article.

(Ord. 1397, Art. IV, Sec. 5)

16-317. Owner Responsibility.

The property owner is responsible for the building sewer to include the control of roots that could impact the public sewer.

(Code 2014)

16-318. Disposal of Sewage.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

(Ord. 1397, Art. II, Sec. 1)

16-319. Natural Outlet.

It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

(Ord. 1397, Art. II, Sec. 2)

16-320. Privies, Etc. Unlawful.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Ord. 1397, Art. II, Sec. 3)

16-321. Prohibited Discharges; Stormwater, Etc.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged on approval of the City, to a storm sewer or natural outlet.

(Ord. 1397, Art. V, Secs. 1:2)

16-322. Same; Generally.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two mg/l as CN in the wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the Wastewater Treatment Plant such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics,

wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, mild containers, either whole or ground by garbage grinders.

(e) Any substances, materials, waters, or wastes if it appears likely in the opinion of the director that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials or construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

(f) Any liquid or vapor having a temperature higher than 150° F.

(g) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150° F.

(h) Any garbage that has not been properly shredded.

(i) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(j) Any waters or wastes containing chromium, copper, zinc, and similar objectionable or toxic substances or wastes with an excessive chlorine requirement.

(k) Any waters or wastes that contain phenols or other taste- or odor-producing substances, in such concentrations that exceed limits after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(l) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits in compliance with applicable State or federal regulations.

(m) Any waters or wastes having a pH in excess of 9.5.

(n) Materials which exert or cause.

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the Wastewater Treatment Plant.

(4) Unusual volume of flow or concentration of wastes constituting slugs as defined herein:

(o) Waters or wastes that contain substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of the Kansas Department of Health and Environment having jurisdiction over discharge to the receiving waters.

(p) Any waters or wastes having (1) a five-day BOD greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight of suspended solids, or (3) having an average daily flow greater than two percent (2%) of the average waste water flow of the City, shall be subject to the review of the director. Where necessary the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the director and no construction of such facilities shall be commenced until the approvals are obtained in writing.

(Ord. 1397, Art. V, Sec. 3:4)

16-323. Same; Pretreatment and Flow of Certain Discharges.

If any waters or wastes are discharged, or are proposed to be discharged to the public sanitary sewers, which waters contain the substances or possess, the characteristics enumerated in Section 16-322, and which in the judgment of the director, may have a deleterious effect upon the Wastewater Treatment Plant, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the director may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or,
- (d) Require payment to cover the added costs to handle and treat the wastes not covered by existing taxes or wastewater charges under the provisions of Section 16-328.

If the director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the director, and subject to the requirements of all applicable codes, ordinances and laws.

(Ord. 1397, Art. V, Sec. 5)

16-324. Interceptors; Grease, Oil, Etc.

Grease, oil and sand interceptors shall be provided when they are necessary to properly handle liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the director, and shall be located as to be readily and easily accessible for cleaning and inspection.

(Ord. 1397, Art. V, Sec. 6)

16-325. Preliminary Treatment Facilities Operation.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(Ord. 1397, Art. V, Sec. 7)

16-326. Control Manhole.

The owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole to facilitate observation. Sampling flow may be required to measure wastes. Such manhole, when required, shall be accessibly and safety located, and shall be constructed in accordance with plans approved by the director. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(Ord. 1397, Art. V, Sec. 8)

16-327. Measurement and Test Standards.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole is available, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the Wastewater Treatment Plant and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.

(Ord. 1397, Art. V, Sec. 9)

16-328. Special Agreements.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern.

(Ord. 1397, Art. V, Sec. 10)

16-329. Inspections to Be Allowed; Conditions.

(a) The Director, and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Article. The Director or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to herein, the Director or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 16-326.

(Ord. 1397, Art. VII, Secs. 1:2)

16-330. Same; Entrance Through Easements.

The director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sanitary sewer system within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement that pertains to the private property involved.

(Ord. 1397, Sec. VII, Sec. 3)

16-331. Permit Required; Application.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the City. Each dwelling house owner who shall be required or desire to make service connections with the sanitary sewer system in the City shall first make application in writing therefor to the Building Official, who shall issue a permit therefor.

(Code 1970, 27-79; Code 1989)

ARTICLE 4. SOLID WASTE**16-401. Solid Waste Management Code.**

There is hereby incorporated by reference the "Solid Waste Management Code for Bonner Springs, Kansas," prepared for the City by Freilich, Leitner, Carlisle & Shortlidge, of Kansas City, Missouri, dated August 27, 1991. Not less than one (1) copy of the "Solid Waste Management Code for Bonner Springs, Kansas" shall be marked and stamped "Official Copy as Incorporated by the Code of the City of Bonner Springs, Kansas" to which shall be attached a copy of this incorporating Section, and shall be filed with the City Clerk and open to inspection and available to the public at all reasonable business hours.

(Ord. 1621, Sec. 1; Code 1992; Ord. 1984; Ord. 2120; Ord. 2224; Ord. 2263; Ord. 2280; Ord. 2377)

16-402. Notices to Appear.

Pursuant to the authority of Charter Ordinance No. 29, Law Enforcement, the City Clerk, Deputy City Clerk or any other City Employee as designated in writing by the City Manager shall have the authority to issue notices to appear for violations of this ordinance.

(Ord. 2353)

ARTICLE 5. STORM WATER MANAGEMENT PROGRAM AND UTILITY**16-501. Definitions.**

For the purposes of this Article, the following words and phrases shall have the meanings indicated:

(a) Billing Period means the service period identified on the utility bill. Each account shall be billed monthly in arrears of the service period. A developed property that receives a City of Bonner Springs water or sewer utility service shall be billed monthly in arrears of the service.

(b) City Manager means the City Manager for the City of Bonner Springs, Kansas or his or her designee.

(c) Customer means anyone receiving and being billed for utility services from the City.

(d) Developed Property means real property which has been altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious area.

(e) Dwelling Unit means a singular unit or apartment providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking, and sanitation.

(f) Exempt Property means public rights of way, public streets, public alleys, and public sidewalks, as well as any property that the Governing Body classifies as exempt.

(g) Fee or Storm Water Utility Fee means the charge established under this ordinance to be billed to customers/owners to fund the costs of Storm Water Management Program and of operating, maintaining, and improving the Storm Water system in the City.

(h) Fiscal Year means the twelve-month period commencing on the first day of January of any year.

(i) Governing Body means the Mayor and elected City Council members as set out in Chapter VI of the Code of the City of Bonner Springs, KS.

(j) Impervious Area means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as Undeveloped Property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undeveloped Property, including, but not limited to, roofs, sidewalks, patios, most conventionally surfaced streets, pavement, driveways, parking lots, athletic courts and any other oiled, graveled, or compacted surface.

(k) Non-Residential Property means any property that is designated by the Utility Billing System as non-residential.

(l) Property Owner means the property owner of record as listed in the County Assessment Roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

(m) Residential Property means any property designated by the Utility Billing System as residential.

(n) Storm Water Management Fund or Fund means the enterprise Fund created by this ordinance to operate, maintain, and improve the City's Storm Water system and for such other purposes as stated in this Ordinance.

(o) Storm Water Management Program means the planning, design, construction, regulation and enforcement, improvement, repair, maintenance, control measures, public education, citizen participation, and operation of facilities and programs relating to water, flood plains, flood control, grading erosion, tree conservation, and sediment control.

(p) Storm Water System means the system or network of storm and surface water management facilities including but not limited to inlets, conduits, manholes, channels, ditches on City property, drainage easements, City owned retention and detention basin, infiltration facilities and other components.

(q) Undeveloped Property means real property that has not been altered from its natural state by dredging, filling, removal of trees and vegetation, or other activities which have disturbed or altered the topography or soils on the property.

(r) Utility Billing System means the system utilized by the City of Bonner Springs to create a periodic utility bill and any or all upgrades or modifications to that system.

(s) Storm Water Utility Fee System means the utility created by this ordinance for the purpose of implementing and funding the Storm Water Management Program.

(t) Water means any Storm Water, surface water, snow melt or ground water.

(u) Vacant Improved Property means unoccupied developed property that contains impervious area

16-502. Findings and Statements of Policy.

(a) The City maintains a system of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, City owned retention and detention basins, infiltration facilities, and other components. The Storm Water system in the City needs regular maintenance and improvements.

(b) All developed property in the City either uses or benefits from the maintenance of the Storm Water system. The extent of use of the Storm Water system by each property is dependent on factors that influence runoff, including land use and the amount of impervious surface on the property.

(c) The costs of improving, maintaining, operating, and monitoring the Storm Water system should be allocated, to the extent practicable, to all developed properties based on the impact of runoff from the impervious areas of the property on the Storm Water management system.

(d) Management of the Storm Water system to protect the public health, safety, and welfare requires adequate revenues and it is in the interest of the public to finance Storm Water management adequately with a user fee system that is reasonable and equitable so that each user of the system pays to the extent to which the user contributes to the need for it. The City is responsible for the provision of a planned and orderly system for managing and mitigating the effects of development on Storm Water and appropriate balancing between development and preservation of the natural environment. To accomplish these ends, the City desires to create a Storm Water Management Program and Storm Water Utility pursuant to Charter Ordinance No. 27.

(e) The Storm Water Management Program will also initiate innovative and proactive approaches to Storm Water management within the City to address problems in areas of the City that currently are prone to flooding, protect against replication of these types of problems and the creation of similar problems in newly developing areas of the City, and assist in meeting the mandates of the National

Pollutant Discharge Elimination System as created by the Federal Clean Water Act and associated State and federal laws and their supporting regulations.

(f) The Storm Water Utility Fee imposed by this ordinance is neither a tax nor a special assessment, but a charge (in the nature of tolls, fees or rents) for services rendered or available.

16-503. Establishment of Storm Water Management Program and Storm Water Utility.

Pursuant to the City Charter Ordinance No. 27, the City's general home rule authority, its nuisance abatement authority, its police powers and all other authority, the Governing Body does hereby establish both a Storm Water Management Program and a Storm Water Utility and hereby declares its intention to operate the same.

16-504. Administration of the Storm Water Management Program; the Storm Water Utility.

Under the direction of the City Manager, and not in contravention of any City Ordinance, resolution or regulation, shall have the power to undertake the following activities to administer the Storm Water Management Program:

(a) To advise the Governing Body on matters relating to the Storm Water Management Program and to make recommendations to the Governing Body concerning the adoption of ordinances, resolutions, policies and regulations in furtherance of the objectives of the Storm Water Management Program.

(b) The acquisition by gift, purchase or eminent domain of real and personal property, easements thereon and/or interests therein, necessary to construct, operate, and maintain Storm Water control facilities.

(c) To undertake the engineering and design, debt service and related financing expenses, construction costs for new facilities, and enlargement or improvement of existing facilities, operation and maintenance of the Storm Water system.

(d) Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of Storm Water which would flow into the Storm Water Management System or in any way effect the implementation of the Storm Water Management Program.

(e) Monitoring, surveillance, and inspection of Storm Water control devices.

(f) Water quality monitoring and water quality programs.

(g) Retrofitting developed areas for pollution control.

(h) Inspection and enforcement activities.

(i) Analyze the cost of services and benefits provided by the Storm Water Utility and the structure of fees, service charges, credits, and other revenues on a regular basis and make recommendations to the Governing Body regarding the same.

(j) To undertake expenditures as required to implement these activities, including costs of Capital Improvements, Operations and Maintenance and other costs as may be required.

(k) Other activities which are reasonably required.

16-505. Classification of Property for Purposes of Determination of the Storm Water Utility Fee.

For purposes of determining the Storm Water Utility Fee, all properties in the City are classified into one of the following classes:

(a) Residential property.

- (1) Residential Fee. The Council has determined that a flat Storm Water Utility Fee shall be charged against all Residential Properties classified as a dwelling unit. The Council reserves the right to amend or adjust this Storm Water Utility fee or to establish a formula for calculating the Storm Water Utility fees at any time.

(b) Non-Residential Property.

- (1) Non-Residential Property Fee. The Council has determined that a flat Storm Water Utility Fee shall be charged against all Non-Residential Properties. The Council reserves the right to amend or adjust this Storm Water Utility fee or to establish a formula for calculating the Storm Water Utility fees at any time.

(c) Vacant Improved Property.

- (1) Vacant Improved Property Fee. The Storm Water Utility fee for vacant improved property shall be the same as the fee applied to property if it were occupied. The Storm Water Utility fee shall be assessed to the owner of record according to the billing procedures provided for in Section 16-508.

(d) Undeveloped Property.

- (1) Undeveloped Property Fee. There shall be no fee for undeveloped property.

(e) Exempt Property.

- (1) Exempt Property Fee. There shall be no fee for undeveloped and exempt property.

16-506. Storm Water Utility Fee.

Effective April 1, 2008, a monthly service charge is imposed upon all developed property in the City to fund Storm Water management programs. Thereafter, the monthly service charge shall be calculated annually on January 1 and assessed monthly during the following 12 month period. This service charge shall be known as the Storm Water Utility Fee ("Fee"). The fee shall be calculated to insure adequate revenues to fund the costs of the Storm Water Management Program and to provide for the operation, maintenance, and capital improvements of the Storm Water system in the City. The City Manager shall make an annual recommendation to the Governing Body as to the monthly charge necessary to fulfill the proposed purpose of the Storm Water Management Program. The fees shall be as approved by the City Council.

16-507. Charges for Tax-Exempt Properties.

The Governing Body finds that all real property in the City contributes to runoff and either uses or benefits from the maintenance of the Storm Water system. Therefore, except as otherwise provided in Section 16-701, all developed property in the City, including property that is tax exempt from property tax shall be charged the Storm Water Utility Fee.

16-508. When Storm Water Utility Fee Payable; Interest and Penalties; Lien on Real Property; Abatement of Small Amounts Due.

The Storm Water utility fee shall become part of the monthly utility bill sent to utility customers to be paid in accordance with Sections 16-119:122 and/or if the fee is not paid within the 30-day period following the date of the utility bill, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land from which the bill is due, and the City Clerk, at the time of certification of other City taxes, shall certify the costs and the County Clerk shall extend the same on the tax rolls of the County against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid. The City may pursue collection both by levy of a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest are paid in full. Any account that is inactive in the Utility Billing System shall not be charged for the Storm Water utility fee until the account becomes activated.”

(Ord. 2314)

16-509. Requests for Appeal or Correction of the Storm Water Management Fee.

A customer/owner may request an appeal or correction of the Fee by submitting the request in writing to the City Manager within thirty (30) days after the date of the contested bill. Grounds for appeal or correction of the Fee include:

(a) Incorrect classification of the property for purposes of determining the Fee;

(b) Errors in the identification of the property subject to the Fee. The City Manager shall make a determination within thirty (30) days after receipt of the customer/owner's completed written request for appeal or correction of the Fee. The City Manager's decision on a request for appeal or correction of the Fee shall be final. A customer/owner must comply with all rules and procedures adopted by the City when submitting a request for appeal or correction of the Fee and must provide all information necessary for the City Manager to make a determination on a request for correction of the Fee. The burden of proof shall be on the customer/owner to demonstrate, by clear and convincing evidence, that the determination of the City Manager, from which the appeal is being taken, is erroneous. The City Manager shall notify the customer/owner in writing of the decision. Failure to comply with the provisions of this Subsection shall be grounds for denial of the request. The filing of a notice of appeal shall not stay the imposition or duty to pay the fee. If the City Manager determines that the fee should not be paid or the amount is less than the amount appealed, the City shall issue a refund in the appropriate amount to the customer/owner. All refunds shall be without interest.

(Ord. 2205, Charter Ord. 27)