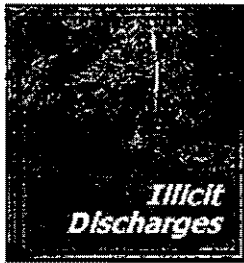


2002 Stormwater Model Ordinances

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**Section I. Purpose/Intent**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of ( ) through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
3. To establish legal authority to carry out all inspection, surveillance and

monitoring procedures necessary to ensure compliance with this ordinance

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## **Section II. Definitions**

For the purposes of this ordinance, the following shall mean:

**Authorized Enforcement Agency:** employees or designees of the director of the municipal agency designated to enforce this ordinance.

**Best Management Practices (BMPs):** schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**Construction Activity.** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

**Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section X of this ordinance.

**Illicit Connections.** An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, Any drain or conveyance connected from a commercial or industrial land use to the storm

drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**Industrial Activity.** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water.

**Person:** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Stormwater Pollution Prevention Plan:** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

**Wastewater** means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

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### **Section III. Applicability**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

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### **Section IV. Responsibility for Administration**

The \_\_\_\_\_ [authorized enforcement agency] shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

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### **V. Severability**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

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### **VI. Ultimate Responsibility**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

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## **VII. Discharge Prohibitions**

### **Prohibition of Illegal Discharges.**

No person shall discharge or cause to be discharged into the municipal storm drain 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 storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

### **Prohibition of Illicit Connections.**

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. 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.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

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## **VIII. Suspension of MS4 Access**

#### Suspension due to Illicit Discharges in Emergency Situations

The \_\_\_\_\_ [authorized enforcement agency] may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

#### Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

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### **IX. Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the \_\_\_\_\_ [authorized enforcement agency] prior to the allowing of discharges to the MS4.

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### **X. Monitoring of Discharges**

#### **A. Applicability.**

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

#### **B. Access to Facilities.**

1. The \_\_\_\_\_ [authorized enforcement agency] shall be permitted to enter and inspect facilities subject to regulation under this ordinance

as often as may be necessary to determine compliance with this ordinance. 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.

2. Facility operators shall allow the \_\_\_\_\_ [authorized enforcement agency] 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 permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The \_\_\_\_\_ [authorized enforcement agency] 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 storm water discharge.
4. The \_\_\_\_\_ [authorized enforcement agency] 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.
5. 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 \_\_\_\_\_ [authorized enforcement agency] and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the \_\_\_\_\_ [authorized enforcement agency] access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water 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 ordinance.
7. If the \_\_\_\_\_ [authorized enforcement agency] has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, 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 ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

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## **XI. Requirements to Prevent, Control, and Reduce Storm Water**



## **Pollutants by the Use of Best Management Practices**

\_\_\_\_\_ [Authorized enforcement agency] will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

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## **XII. Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures 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.

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## **XIII. Notification of Spills**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous

materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the \_\_\_\_\_ [authorized enforcement agency] within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

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## **XIV. Enforcement.**

### **A. Notice of Violation.**

Whenever the \_\_\_\_\_ [authorized enforcement agency] finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

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

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## **XV. Appeal of Notice of Violation.**

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

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### **XVI. Enforcement Measures after Appeal**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, \_\_ within days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

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### **XVII. Cost of Abatement of the Violation.**

Within \_\_ days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within \_\_ days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of percent per annum shall be assessed on the balance beginning on the \_\_ st day following discovery of the violation.

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### **XVIII. Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

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### **XIX. Appeal of Notice of Violation.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

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### **XX. Violations Deemed A Public Nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

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### **XXI. Criminal Prosecution.**

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \_\_\_\_\_ dollars per violation per day and/or imprisonment for a period of time not to exceed \_\_\_\_ days.

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

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### **XXII. Remedies Not Exclusive.**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

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### **XXIII. Adoption of Ordinance.**

This ordinance shall be in full force and effect \_\_\_ days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, by the following vote:

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URL: <http://www.epa.gov/owow/NPS/ordinance/mol4.htm>  
Revised October 27, 1999

## CITY OF FORT WORTH ENVIRONMENT CODE

## CHAPTER 12.5

## ARTICLE III - STORMWATER PROTECTION

This document is downloadable in WordPerfect format.

**(With amendments through May 18, 1999)**

## DIVISION 1. GENERAL PROVISIONS

**Section 12.5-300. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated.

Agricultural storm water runoff means any storm water runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

Aquatic monitoring organism means the Fathead minnow *Pimephales promelas*, the bacterium *Vibrio fischeri*, or the daphnid *Ceriodaphnia dubia*.

Best management practices (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the MS4 and waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Cellar dirt means construction site waste materials, such as natural rock and soil overburden.

CFR means the Code of Federal Regulations.

City means the City of Fort Worth, Texas.

Contaminated means containing a harmful quantity of any substance.

Contamination means the presence of or entry into a public water supply system, the MS4, Waters of the State, or Waters of the United States of any substance which may be deleterious to the public health and/or the quality of the water.

Cosmetic cleaning means cleaning done for cosmetic purposes. It does not include industrial cleaning, cleaning associated with manufacturing activities, hazardous or toxic waste cleaning, or any cleaning otherwise regulated under federal, state, or local laws.

Director means the Director of the Department of Environmental Management or the Director's authorized representatives.

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

Discharger means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.

Environmental Protection Agency or EPA means the United States Environmental Protection Agency, or any duly authorized official of said agency.

Facility, as used in Division 3 of this Article, means any facility, including construction sites, required by the Federal Clean Water Act to have a permit to discharge storm water associated with industrial activity.

Fire Code means the "Fire Prevention and Protection" chapter of the City Code.

Fire Department means the Fire Department of the City of Fort Worth, or any duly authorized representative thereof.

Fire protection water means any water, and any substances or materials contained therein, used by any person other than the Fire Department to control or extinguish a fire.

Harmful quantity means the amount of any substance that will cause pollution of waters in the State, Waters of the United States, or that will cause lethal or sub-lethal adverse effects on representative, sensitive aquatic monitoring organisms belonging to the City, upon their exposure to samples of any discharge into waters in the State, Waters of the United States, or the MS4.

Mobile commercial cosmetic cleaning means power washing, steam cleaning, and any other mobile cosmetic cleaning operation, of vehicles and/or exterior surfaces, engaged in for commercial purposes.

Municipal separate storm sewer system (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal Clean Water Act.

NOI means Notice of Intent.

Non-point source means any source of any discharge of a pollutant that is not a "point source."

Notice of intent means the Notice of Intent that is required by the NPDES Storm Water Multi-Sector General Permit, the EPA Region 6 NPDES Storm Water Construction general permit, or any similar general permit to discharge storm water associated with industrial activity that is issued by the EPA or the TNRCC.

NPDES means the National Pollutant Discharge Elimination System.

NPDES permit means a permit issued by EPA (or by the State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Operate means drive, conduct, work, run, manage, or control.

Operator, as used in Division 3 of this Article, means the party or parties that either individually or taken together meet the following two criteria: 1) They have operational control over the site specifications (including the ability to make modifications in specifications); and 2) they have the day-to-day operational control of those activities at the site necessary to ensure compliance with SWPPP requirements and any permit conditions.



Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH means the logarithm to the base 10 of the reciprocal of the concentration in grams per liter of hydrogen ions; a measure of the acidity or alkalinity of a solution, expressed in standard units.

Point source means 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. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant means dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; filter backwash; munitions; chemical wastes; biological materials; toxic materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, recreational, and agricultural waste discharged into water or into the municipal separate storm sewer system.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any Water of the State or Water of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into ground-water, subsurface soils, surface soils, the municipal separate storm sewer system (MS4), the Water of the State, the Waters of the United States.

State means the State of Texas.

Storm water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.

Storm water discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR part 122. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from 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 facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR part 401); 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; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in this paragraphs (i)-(xi) of this definition) include those facilities designated under the provisions of 40 CFR §122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" :

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 31, 32 (except 323), 33, 34, 37;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR §434.11(1) because the performance bond issued to the facility by the appropriate federal Surface Mining Control and Reclamation Act (SMCRA) authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are

operating under interim status or a permit under subtitle C of the federal Resource Conservation and Recovery Act (RCRA);

(v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)-(vii) or (ix)-(xi) of this definition are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the federal Clean Water Act;

(x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25, (and which are not otherwise included within categories (ii)-(x) of this definition);

Storm water pollution prevention plan means a plan required by a permit to discharge storm water associated with industrial activity, including construction, and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility.

SWPPP means storm water pollution prevention plan.

TAC means the Texas Administrative Code.

Texas Pollutant Discharge Elimination System means the program delegated to the State of Texas by the EPA pursuant to 33 USC §1342(b).

TPDES means the Texas Pollutant Discharge Elimination System.

TSS (total suspended solids) means solids that either float on the surface, or are in suspension in, water, wastewater, or other liquids, and which are generally removable by a laboratory filtration device. TSS is expressed in milligrams per liter.

Uncontaminated means not containing a harmful quantity of any substance.

USC means United States Code.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Water in the state means ground-water, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, wetlands, marshes, inlets, canals inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the bed and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Waters of the United States means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

Wetland means an area that is inundated or saturated by surface or ground-water at a

frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Section 12.5-301. Administration.**

The Director of the Department of Environmental Management and the Director's authorized representatives are authorized to administer, implement, and enforce the provisions of this Article.

**Section 12.5-302. Discharge to MS4 Prohibited.**

(a) A person commits an offense if the person introduces or causes to be introduced into the MS4 any discharge that is not composed entirely of stormwater.

(b) It is an affirmative defense to any enforcement action for a violation of subsection (a) that the discharge was composed entirely of one or more of the following categories of discharges:

(1) A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);

(2) A discharge or flow resulting from fire fighting by the Fire Department;

(3) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;

(4) Agricultural stormwater runoff;

- (5) A discharge or flow from water line flushing or disinfection that contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;
- (6) A discharge or flow from lawn watering, or landscape irrigation;
- (7) A discharge or flow from a diverted stream flow or natural spring;
- (8) A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
- (9) Uncontaminated groundwater infiltration (as defined at 40 C.F.R. § 35.2005(20)) to the MS4;
- (10) Uncontaminated discharge or flow from a foundation drain, crawl space pump, or footing drain;
- (11) A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
- (12) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
- (13) A discharge or flow from individual residential car washing;
- (14) A discharge or flow from a riparian habitat or wetland;
- (15) A discharge or flow from cold water (or hot water with prior permission of the Director) used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance; or

(16) Drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited.

(17) A discharge or flow of uncontaminated storm water pumped from an excavation.

(c) No affirmative defense shall be available under subsection (b) if:

(1) the discharge or flow in question has been determined by the Director to be a source of a pollutant or pollutants to the waters of the United States or to the MS4;

(2) written notice of such determination has been provided to the discharger;

(3) and the discharge has continued after the expiration of the time given in the notice to cease the discharge.

(d) A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of any substance.

### **Section 12.5-303. Connection of Sanitary Sewer Prohibited.**

A person commits an offense if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

### **Section 12.5-304. Nuisances.**

(a) An actual or threatened discharge to the MS4 that violates or would violate this Article is

hereby declared to be a nuisance.

(b) A line conveying sewage or designed to convey sewage that is connected to the MS4 is hereby declared to be a nuisance.

**Section 12.5-305. Emergency Suspension of Utility Service and MS4 Access.**

(a) The City may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person discharging to the MS4, Waters of the United States, or POTW when such suspension is necessary to stop an actual or threatened discharge which:

(1) presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or

(2) presents or may present imminent and substantial danger to the MS4 or Waters of the United States.

(b) When the Director determines that City-provided water and/or sanitary sewer service needs to be suspended pursuant to subsection (a), the Director shall request the Director of the Department of Water to do so.

(c) As soon as is practicable after the suspension of service or MS4 discharge access, the Director shall notify the violator of the suspension in person or by certified mail, return receipt requested, and shall order the violator to cease the discharge immediately. When time permits, the Director should also attempt to notify the violator prior to suspending service or access.

(d) If the violator fails to comply with an order issued under subsection (c), the Director may take such steps as the Director deems necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.



(e) The City shall not reinstate suspended services or MS4 access to the violator until:

(1) The violator presents proof, satisfactory to the Director, that the noncomplying discharge has been eliminated and its cause determined and corrected;

(2) The violator pays the City for all costs the City incurred in responding to abating, and remediating the discharge or threatened discharge; and

(3) The violator pays the City for all costs the City will incur in reinstating service or access.

(f) A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the Director, in writing, within ten days of notice of the suspension in accordance with Section 12.5-119 of this chapter.

(g) The City may obtain a lien against the property to recover its response costs pursuant to the procedure set out in Section 12.5-120 of this chapter.

(h) The remedies provided by this Section are in addition to any other remedies set out in this chapter. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

#### **Section 12.5-306. Non-emergency Suspension of Utility Service and MS4 Access.**

(a) The City may terminate the City-provided water supply, sanitary sewer connection, and/or MS4 access any person discharging to the MS4 in violation of this Article, if such termination would abate or reduce the illicit discharge.

(b) The Director will notify a violator of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access. The violator may petition the Director for a reconsideration and hearing pursuant to Section 12.5-119 of this chapter.

(c) The City shall not reinstate suspended services or MS4 access to the discharger until:

(1) The violator presents proof, satisfactory to the Director, that the noncomplying discharge has been eliminated and its cause determined and corrected; and

(2) The violator pays the City for all costs the City will incur in reinstating service or MS4 access.

(d) The remedies provided by this Section are in addition to any other remedies set out in this chapter. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

(e) A person commits an offense if the person reinstates water service, sanitary sewer service, and or MS4 access to premises terminated pursuant to this Section, without the prior approval of the Director.

**[Sections 12.5-306 through 12.5-314 reserved]**

## DIVISION 2. COSMETIC CLEANING

### **Section 12.5-315. Permit and Registration Required.**

(a) A person commits an offense if the person knowingly engages in mobile commercial cosmetic cleaning without a valid permit issued by the Director.

(b) A person commits an offense if the person knowingly operates or causes to be operated a mobile commercial cosmetic cleaning vehicle which is not registered with the Director.

#### **Section 12.5-316. Permit Application Procedures.**

(a) A person required by section 12.5-315 to have a permit shall complete and file a permit application on a form prescribed by the Director.

(b) The Director may require any information on an application that the Director believes is necessary to ensure that best management practices are implemented by the permittee.

(c) The application shall include a description and the vehicle license registration number of each vehicle to be registered under the permit. All motor vehicles and trailers used to transport cosmetic cleaning rigs shall be registered. However, a motor vehicle which is used to tow a trailer registered with the Director and which is not used to transport a cosmetic cleaning rig itself, shall not be required to be registered.

(d) Any applicant who utilizes wash water recycling units shall list all sanitary sewer discharge locations and other disposal sites the applicant intends to use.

#### **Section 12.5-317. Issuance of Permit and Registration Certificates.**

(a) The Director may issue a permit and registration certificates after the applicant pays all

applicable fees, unless the Director has cause to deny such permit, as specified in Section 12.5-320. The Director shall provide for procedures to add registered vehicles to a permit during its term.

(b) A permit shall be valid for one year from the date of its issuance, unless suspended or revoked. Registration certificates shall be valid for the term of the permit.

(c) Neither a permit nor a registration certificate shall be transferable.

(d) The City Council shall set an annual fee for a permit and each registration certificate issued under this Division.

(e) The Director will issue a registration number to each vehicle registered under a permit, and listed on the permit. A registration number is not transferable.

(f) The Director will issue a registration certificate for each vehicle registered under a permit. The certificate shall be of a size and design determined by the Director.

#### **Section 12.5-318. Display of Registration Numbers and Certificates.**

(a) A permit holder shall have the registration numbers permanently displayed on each of its vehicles registered under the permit as follows:

(1) The registration number shall be placed on both sides of the vehicle in a location approved by the Director.

(2) The registration number shall be in numerals of a minimum height of three (3) inches, in a color contrasting to their background, and in a visible location.

(b) A permit holder shall place a registration certificate on each registered vehicle in a location approved by the Director.

(c) A person commits an offense if the person operates or causes to be operated a mobile commercial cosmetic cleaning vehicle which does not properly display the registration number assigned to that vehicle by the Director.

(d) A person commits an offense if the person operates or causes to be operated a mobile commercial cosmetic cleaning vehicle which does not properly display a valid registration certificate.

#### **Section 12.5-319. Permit Conditions.**

As a condition of receiving and maintaining a permit under this Division a permit holder shall comply with the following:

(a) A permit holder shall immediately notify the Director of any management changes in the business during the time the permit is in effect.

(b) A permit holder shall submit samples of wash water and/or waste water to the Director or to an authorized representative of the Director of the Department of Water, immediately upon their demand.

(c) A permit holder who utilizes wash water recycling units shall:

(1) notify the Director in writing of all changes in disposal sites it wants to use during the permit period;

(2) discharge wash water into the sanitary sewer only at those sites listed in its permit application and its notices under subsection (c)(1); and

(3) before the end of each permit period:

A. test or cause to be tested a representative sample of its recycled wash water discharge to determine compliance with the discharge limits and prohibitions of Section 12.5-610 of this chapter;

B. report the results of such tests in writing to the Industrial Waste Section of the Wastewater Treatment Division of the Department of Water, and send a copy to the Department of Environmental Management; and

C. sign and certify the report as required by Section 12.5-633 of this chapter.

(d) A permit holder shall immediately notify the Director when it sells or otherwise disposes of a vehicle registered under its permit.

(e) A permit holder shall ensure that all of its employees engaged in mobile commercial cosmetic cleaning are knowledgeable of the discharge prohibitions to the MS4 under this Article, and shall require all its employees to use best management practices when engaging in mobile commercial cosmetic cleaning. For exterior cleaning, best management practices shall include, but not be limited to, the following:

(1) Accumulations of oil and grease which have not dried shall be precleaned with absorbent clay (kitty litter) or a similar material and properly disposed of prior to washing.

(2) Storm sewer entrances which will receive the wash water shall be screened to catch leaves and other debris. Wash water discharge shall comply with Section 12.5-302(b)(15).

(3) Wash water discharged to the MS4 shall first pass through an oil absorbent boom or pad to absorb hydrocarbons so that no oil sheen is present on the discharge. Wash water discharge shall comply with Section 12.5-302(b)(15).

(4) Wash water which does not comply with Section 12.5-302(b)(15) shall be discharged into the sanitary sewer system. Discharge shall be at the job site when possible. Wash water from recycle rigs which does not comply with Section 12.5-302(b)(15) shall be disposed of in compliance with subsection (c) of this section. Grit and sludge shall not be disposed of through the sanitary sewer.

(f) A permit holder shall ensure that all of its vehicles registered under the permit display the registration numbers and certificates as required by this Division, and shall not allow unregistered vehicles to engage in mobile commercial cosmetic cleaning.

(g) A permit holder shall not discharge to the MS4 in violation of this Article.

(h) A permit holder shall not discharge wastewater to the sanitary sewer system in violation of Section 12.5-610 of this chapter.

(i) A permit holder shall not discharge wastewater into the sanitary sewer, either on a job site or off a job site, without the permission of the owner of the property upon which the sewer inlet is located. The permit holder shall provide proof of such permission to the Director upon demand.

(k) A permit holder shall not create or maintain a nuisance in violation of Section 12.5-321.

#### **Section 12.5-320. Permit Denial and Revocation.**

(a) The Director may deny a permit, or after notice and hearing revoke a permit if:

- (1) The permit application contains a false statement of a material fact;
  - (2) If the person engages in operations that do not consist solely of cosmetic cleaning; or
  - (3) If the permit holder or an employee of the permit holder has violated a permit condition.
- (b) An applicant whose permit is denied will be notified by the Director, in writing, of the denial and the grounds therefore. Such notice will be sent certified mail, return receipt requested, to the mailing address listed on the application.
- (c) An applicant whose permit is denied may request a reconsideration no later than the tenth day after receipt of the notice of denial, in accordance with Section 12.5-119 of this chapter.
- (d) A permit may be suspended or revoked under the procedures of Section 12.5-119(b) of this chapter.

#### **Section 12.5-321. Nuisances.**

- (a) A vehicle transporting cosmetic cleaning wash water or wastewater which is leaking or spilling from such vehicle is hereby declared to be a nuisance.
- (b) Any premises upon which cosmetic cleaning wastewater has accumulated and which is emitting noxious or offensive odors, or which is creating an unsanitary condition, or which is injurious to the public health or the environment is hereby declared to be a nuisance.



## DIVISION 3.

STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY,  
INCLUDING CONSTRUCTION ACTIVITY**Section 12.5-330. Applicability.**

This division applies to all facilities located within the City that have storm water discharges associated with industrial activity, including construction activity.

**Section 12.5-331. Access to Facilities.**

(a) The Director is authorized by Section 12.5-121 of this Chapter to enter and inspect facilities subject to regulation under this Article.

(b) Facility operators shall allow the Director 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 TPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(c) The Director shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Director to conduct monitoring and/or sampling of the facility's storm water discharge.

(d) 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 Director and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(e) Unreasonable delays in allowing the Director access to a permitted facility is a violation of a storm water discharge permit and of this Article. A person who is the operator of a facility with a NPDES or TPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Director reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.

**Section 12.5-332. Unpermitted Discharges Prohibited**

A person who is the operator of a facility commits an offense if the person discharges, or

causes to be discharged, storm water associated with industrial activity without first having obtained a NPDES or TPDES permit to do so.

**Section 12.5-333. Submission of NOI to City.**

(a) The operator of a facility, including construction sites, required to have a NPDES or TPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Director at the same time the operator submits the original Notice of Intent to the EPA or the TNRCC as applicable.

(b) The copy of the Notice of Intent may be delivered to the Director either in person or by mailing it to:

Notice of Intent to Discharge Storm Water

Department of Environmental Management

1000 Throckmorton Street

Fort Worth, Texas 76102

(c) A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Director.

**Section 12.5-334. Compliance with Permit.**

(a) A facility shall be operated in strict compliance with the requirements of its NPDES or TPDES permit to discharge storm water associated with industrial activity.

(b) A person commits an offense if the person operates a facility in violation of a requirement of the facility's NPDES or TPDES permit to discharge storm water associated with industrial activity.

**Section 12.5-335 Modification of Storm Water Pollution Prevention Plans**

(a) The Director may require any operator of a facility to modify the facility's storm water pollution prevention plan if in the best professional judgment of the Director, the SWPPP does not comply with the requirements of the facility's NPDES or TPDES permit to discharge storm water associated with industrial activity.

(b) The deficiencies in a facility's SWPPP will be made in writing, and the Director will give the facility operator a reasonable amount of time, not to exceed thirty days, to make the necessary changes in the SWPPP.

**[Sections 12.5-336 through 12.5-399 reserved.]**

## MODEL STORM WATER ORDINANCE

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MODEL STORM WATER ORDINANCE

I. GENERAL PROVISIONS

A. Purposes

The purposes and objectives of this Ordinance are as follows:

1. To maintain and improve the quality of surface water and groundwater within the ~~City of Addison~~ <sup>Town</sup> Addison, the North Central Texas Region, and the State of Texas.
2. To prevent the discharge of contaminated storm water runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the ~~City of~~ <sup>Town of</sup> Addison.
3. To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers and natural waters of the ~~City~~ <sup>Town</sup>.
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
5. To facilitate compliance with state and federal standards and permits, <sup>held</sup> by owners and operators of industrial and construction sites within the ~~City~~ <sup>Town</sup>.
6. To enable the ~~City~~ <sup>Town</sup> to comply with all federal and state laws and regulations applicable to storm water discharges.

B. Administration

Except as otherwise provided herein, ~~the City Engineer,~~ the Director of Public Works, ~~or~~ ~~whichever~~ shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the ~~[City Engineer]~~ may be delegated by the ~~[City Engineer]~~ to other ~~City~~ <sup>Town</sup> personnel.   
 ~~Dir. of P.W.~~ <sup>Dir. of P.W.</sup>

C. Abbreviations

The following abbreviations when used in this Ordinance shall have the designated meanings:

- BMP - Best Management Practices
- BTEX - Benzene, Toluene, Ethylbenzene, and Xylene
- CFR - Code of Federal Regulations
- EPA - U.S. Environmental Protection Agency
- HHW - Hazardous Household Waste
- mg/l - Milligrams per liter
- MS4 - Municipal Separate Storm Sewer System
- NOI - Notice of Intent
- NOT - Notice of Termination
- NPDES - National Pollutant Discharge Elimination System
- ~~Ppb~~ - Parts per billion
- PST - Petroleum Storage Tank
- ~~IRLA~~ - Registered Landscape Architect <sup>out</sup>

ppb

out

- RPE - Registered Professional Engineer
- RQ - Reportable Quantity
- SWPPP - Storm Water Pollution Prevention Plan
- TPH - Total Petroleum Hydrocarbons
- USC - United States Code

D. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

1. Agricultural storm water runoff. Any storm water runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.
2. Best management practices (BMP). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
3. City. The City of Addison, Texas, or the City Council of Addison, Texas.
4. City Engineer. The person appointed to the position of ~~City Engineer by the City Council of the City of~~ Addison, or his/her duly authorized representative.
5. Coal pile runoff. The rainfall runoff from or through any coal storage pile.
6. Commencement of construction. The disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
7. Commercial. Pertaining to any business, trade, industry, or other activity engaged in for profit.
8. Director of Public Works. The person appointed to the position of Director of Public Works by the City Council of the ~~city of~~ Addison, or his/her duly authorized representative.
9. Discharge. Any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.
10. Discharger. Any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.
11. Domestic sewage. Human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.
12. Environmental Protection Agency (EPA). The United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.
13. Extremely hazardous substance. Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.
14. Facility. Any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.
15. Fertilizer. A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers. The term

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does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

16. Final stabilization. The status when all soil disturbing activities at a site have been completed, and a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
17. Fire Department. The Fire Department of the ~~City~~ <sup>Town</sup> of Addison, or any duly authorized representative thereof.
18. Fire protection water. Any water, and any substances or materials contained therein, used by any person other than the Fire Department to control or extinguish a fire.
19. Garbage. Putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.
20. Harmful quantity. The amount of any substance that will cause pollution of water in the State.
21. Hazardous household waste (HHW). Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.
22. Hazardous substance. Any substance listed in Table 302.4 of 40 CFR Part 302.
23. Hazardous waste. Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
24. Hazardous waste treatment, disposal, and recovery facility. All contiguous land, and structures, other appurtenances and improvements on the land, used for the treatment, disposal, or recovery of hazardous waste.
25. Herbicide. A substance or mixture of substances used to destroy a plant or to inhibit plant growth.
26. Industrial waste. Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.
27. Motor vehicle fuel. Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.
28. Municipal landfill (or landfill). An area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, an injection well, or a pile (as these terms are defined in regulations promulgated by the Texas Water Commission).
29. Municipal separate storm sewer system (MS4). The system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the ~~City~~ <sup>Town</sup> and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.
30. Municipal solid waste. Solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.
31. NPDES General Permit for Storm Water Discharges Associated with Industrial Activity (or Industrial General Permit). The Industrial General Permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent modifications or amendments thereto.
32. NPDES General Permit for Storm Water Discharges from Construction Sites (or Construction General Permit). The Construction General Permit issued by EPA on

Private Storm  
Sewer (ditches) ?

- August 27, 1992, and published in Volume 57 of the Federal Register at page 41217 on September 9, 1992, and any subsequent modifications or amendments thereto.
33. NPDES permit. A permit issued by EPA (or by the State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
  34. Non-point source. Any source of any discharge of a pollutant that is not a "point source."
  35. Notice of Intent (NOI). The Notice of Intent that is required by either the Industrial General Permit or the Construction General Permit.
  36. Notice of Termination (NOT). The Notice of Termination that is required by either the Industrial General Permit or the Construction General Permit.
  37. Oil. Any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.
  38. Operator. The person or persons who, either individually or taken together, meet the following two criteria: (1) they have operational control over the facility specifications (including the ability to make modifications in specifications); and (2) they have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.
  39. Owner. The person who owns a facility or part of a facility.
  40. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.
  41. Pesticide. A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as these terms are defined in Section 76.001 of the Texas Agriculture Code).
  42. Petroleum product. A petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and # 1 and #2 diesel. [The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.]
  43. Petroleum storage tank (PST). Any one or combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.
  44. Point source. Any discernable, 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. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
  45. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.
  46. Pollution. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the

public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

47. Qualified personnel. Persons who possess the appropriate competence, skills, and ability (as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.
48. Registered landscape architect (RLA). A person who has been duly licensed and registered to practice landscape architecture by the Texas Board of Architectural Examiners.]
49. Registered professional engineer (RPE). A person who has been duly licensed and registered by the State Board of Registration for Professional Engineers to engage in the practice of engineering in the State of Texas.
50. Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.
51. Reportable quantity (RQ). For any "hazardous substance," the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any "extremely hazardous substance," the quantity established in 40 CFR Part 355 and listed in Appendix A thereto.
52. Rubbish. Nonputrescible solid waste, excluding ashes, that consist of (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).
53. Sanitary sewer (or sewer). The system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the ~~City~~ sewage treatment plant (and to which storm water, surface water, and groundwater are not intentionally admitted).
54. Septic tank waste. Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
55. Service station. Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.
56. Sewage (or sanitary sewage). The domestic sewage and/or industrial waste that is discharged into the ~~City~~ sanitary sewer system and passes through the sanitary sewer system to the ~~City~~ sewage treatment plant for treatment.
57. Site. The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
58. Solid waste. Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.
59. State. The State of Texas.
60. Storm water. Storm water runoff, snow melt runoff, and surface runoff and drainage.
61. Storm water discharge associated with industrial activity. The discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is within one of the categories of facilities listed in 40 CFR § 122.26(b)(14), and which is not excluded from EPA's definition of the same term.
62. Storm water pollution prevention plan (SWPPP). A plan required by either the Construction General Permit or the Industrial General Permit and which describes and ensures the implementation of practices that are to be used to reduce the

Town



pollutants in storm water discharges associated with construction or other industrial activity at the facility.

63. Uncontaminated. Not containing a harmful quantity of any substance.
64. Used oil (or used motor oil). Any oil that has been refined from crude oil or a synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with State and federal law.
65. Water in the State (or water). Any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.
66. Water quality standard. The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the State to be necessary to protect those uses, as specified in Chapter 307 of Title 31 of the Texas Administrative Code.
67. Waters of the United States. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.
68. Wetland. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
69. Yard waste. Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

## II. GENERAL PROHIBITION

- A. No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of storm water.
- B. It is an affirmative defense to any enforcement action for violation of Subsection A of this section that the discharge was composed entirely of one or more of the following categories of discharges:
  1. A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
  2. A discharge or flow resulting from fire fighting by the Fire Department;
  3. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials [that the Fire Code in this Code of Ordinances requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge];

4. Agricultural storm water runoff;
5. A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless [the total residual chlorine (TRC) has been reduced to less than 5.0 mg/l and] it contains no harmful quantity of [chlorine or] any [other] chemical used in line disinfection;
6. A discharge or flow from lawn watering, [or] landscape irrigation [, or other irrigation water];
7. A discharge or flow from a diverted stream flow or natural spring;
8. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
9. Uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
10. Uncontaminated discharge or flow from a foundation drain, crawl space pump, footing drain [, or sump pump];
11. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
12. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
13. A discharge or flow from individual residential car washing;
14. A discharge or flow from a riparian habitat or wetland;
15. A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
16. ~~16.~~ Storm water runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
17. Swimming pool water [that has been dechlorinated so that total residual chlorine (TRC) is less than 5.0 mg/l and] that contains no harmful quantity of [chlorine,] muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.

C. No affirmative defense shall be available under Subsection B of this section if the discharge or flow in question has been determined by the [City Engineer] to be a source of a pollutant or pollutants to the waters of the United States [or to the MS4], written notice of such determination has been provided to the discharger, and the discharge has occurred more than 15 ~~7~~ days beyond such notice. The correctness of the [City Engineer's] determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

Dir. of P.W.

Dir. of P.W.

### III. SPECIFIC PROHIBITIONS AND REQUIREMENTS

- A. The specific prohibitions and requirements in this section are not [necessarily] inclusive of all the discharges prohibited by the general prohibition in Section II.
- B. No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- C. No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:
1. Any used motor oil, antifreeze, or any other motor vehicle fluid;
  2. Any industrial waste;
  3. Any hazardous waste, including hazardous household waste;
  4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
  5. Any garbage, rubbish, or yard waste;
  6. Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than ~~25~~<sup>1</sup> such vehicles;
  7. Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
  8. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
  9. Any wastewater from [commercial?] floor, rug, or carpet cleaning;
  10. Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
  11. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
  12. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or from the cleaning of [commercial?] vehicles or equipment containing, or used in transporting or applying, such material;
  13. Any runoff or washdown water from any animal pen, kennel, or fowl or livestock containment area ~~[containing more than \_\_\_\_\_ animals];~~

14. Any filter backwash from a swimming pool, ~~or~~ fountain ~~or~~ spa]; <sup>S.O</sup>
15. Any swimming pool water containing [total residual chlorine (TRC) of        mg/l or more or containing] any harmful quantity of [chlorine,] muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
16. Any discharge from water line disinfection by superchlorination or other means if [the total residual chlorine (TRC) is at        mg/l or more or if] it contains any harmful quantity of [chlorine or] any other chemical used in line disinfection; <sup>S.O</sup>
17. Any fire protection water containing oil or hazardous substances or materials [that the Fire Code in this Code of Ordinances requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from fire fighting by the Fire Department.)];
18. Any water from a water curtain in a spray room used for painting vehicles or equipment;
19. Any contaminated runoff from a vehicle wrecking yard;
20. Any substance or material that will damage, block, or clog the MS4;
21. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
- (a) Compliance with all state and federal standards and requirements;
  - (b) No discharge containing a harmful quantity of any pollutant; [and]
  - (c) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).
- D. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities [, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials,] in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable ~~under prevailing circumstances~~.
- E. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.
- F. No person shall cause or allow any pavement washwater from a service station to be discharged into the MS4 unless such washwater has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- G. Regulation of Pesticides, Herbicides, and Fertilizers.
- 1. Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide,

Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant thereto; and any other state or federal requirement.

2. Any license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer, transportation, storage, or disposal of a pesticide, herbicide or fertilizer must be presented to [the City Engineer or his/her delegate] and any city law enforcement officer for examination upon request.  
*Dir. of P.W.*
3. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.
4. No person shall use or cause to be used any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
5. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
6. If provided with a display notice containing the provisions of this Subsection, pertaining to the regulation of pesticides, herbicides, and fertilizers (or a reasonable description thereof), ~~and~~ <sup>that</sup> the information that any user of the product may obtain further information from the [City Engineer], any person selling pesticides, herbicides, or fertilizers at retail or wholesale shall post the notice prominently where it may be read by purchasers of the product.

H. Used Oil Regulation *Dir. of P.W.*

1. No person shall:
  - (a) Discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course;
  - (b) Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill;
  - (c) Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.
2. All businesses that change motor oil for the public, ~~municipal waste landfills, and fire stations are encouraged to~~ [or "shall"] serve as public used oil collection centers as provided by state statute in Section 371.024 of the Texas Health & Safety Code.
3. A retail dealer who annually sells directly to the public more than 100 gallons of oil in containers for use off-premises shall post in a prominent place a sign provided by the ~~City~~ <sup>Town</sup> or by the state informing the public that improper disposal of used oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the state used oil information center. [If a sign is provided by

*Town*  
the ~~City~~, it shall also prominently display the ~~City~~ telephone number where information concerning the proper disposal of used oil may be obtained.]

- Cooperate w/ Dallas County or surrounding communities*
- I. [Any prohibitions or requirements deemed necessary to carry out any "hazardous household waste" collection program that the City chooses to adopt (in compliance with the wishes of Region 6 expressed in its draft, draft permit) – for example, requirements that household hazardous waste be segregated from other household waste, be discarded only at certain specified locations, and/or be placed at curbside for collection only at specified times. Certain containers and security measures might also be required. Caution: Any hazardous household waste program must comply with Subchapter L of Chapter 330 of Title 31 of the TAC.]
- J. [A particular city may want to include, or retain from existing ordinances, certain "nuisance" provisions requiring removal of trash and debris from property, prohibiting stagnant water from being allowed to stand on property, and prohibiting storage of toxic or hazardous substances on property so as to allow exposure to precipitation and storm water runoff, etc.]
- K. [A particular city may want to include any provisions deemed necessary to protect special local features critical to control of storm water runoff -- for example, wetlands, swales, or ponds.]

#### IV. RELEASE REPORTING AND CLEANUP

- A. The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone and notify the ~~City Engineer~~ *Dir of Pul* concerning the incident:
1. An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
  2. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
  3. An amount of oil that either (a) violates applicable water quality standards, or (b) causes a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
  4. Any harmful quantity of any pollutant.
- B. The immediate notification required by Subsection A shall include the following information:
1. The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;
  2. The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;
  3. The time and duration (thus far) of the release;
  4. An estimate of the quantity and concentration (if known) of the substance released;
  5. The source of the release;

6. Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
  7. Any precautions that should be taken as a result of the release;
  8. Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and
  9. The names and telephone numbers of the person or persons to be contacted for further information.
- C. Within fifteen (15) days following such release, the responsible person in charge of the facility, vehicle, or other source of the release shall, unless waived by the ~~[City Engineer]~~, submit a written report containing each of the items of information specified above in paragraph B, as well as the following additional information: *Dir. of P.W.*
1. The ultimate duration, concentration, and quantity of the release;
  2. All actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;
  3. Any known or anticipated acute or chronic health risks associated with the release;
  4. Where appropriate, advice regarding medical attention necessary for exposed individuals;
  5. The identity of any governmental/private sector representatives responding to the release; and
  6. The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.
- D. The notifications required by Subsections B and C above shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the ~~City~~ *Town*, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this Ordinance or to state or federal law.
- E. Any person responsible for any release as described in Subsection A above shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
- F. Any person responsible for a release described in Subsection A above shall reimburse the ~~City~~ *Town* for any cost incurred by the ~~City~~ *Town* in responding to the release.

V. **STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES**

A. General Requirements

1. All operators of construction sites shall use best management practices to control and reduce the discharge, to the MS4 and to waters of the United States, of

sediment, silt, earth, soil, and other material associated with the clearing, grading, excavation, and other construction activities to the maximum extent practicable ~~under the circumstances~~. Such best management practices may include, but not be limited to, the following measures:

- (a) Ensuring that existing vegetation is preserved where feasible ~~[attainable?]~~ and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures;
  - (b) Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from the site to the extent feasible ~~[degree attainable?]~~;
  - (c) Minimization of the tracking of sediments off-site by vehicles, the generation of dust, and the escape of other windblown waste from the site;
  - (d) Prevention of the discharge of building materials, including cement, lime, concrete, and mortar, to the MS4 or waters of the United States;
  - (e) Providing general good housekeeping measures to prevent and contain spills of paints, solvents, fuels, septic waste, and other hazardous chemicals and pollutants associated with construction, and to assure proper cleanup and disposal of any such spills in compliance with state, federal, and local requirements;
  - (f) Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
  - (g) Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices in good and effective operating condition; and
  - (h) Installation of structural measures during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include, but not be limited to, the following: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on site; and sequential systems which combine several practices. Operators of construction sites are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with construction activity have terminated.
2. Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of any construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within 24 hours of the end of a storm that is 0.5 inches or



greater. All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, best management practices shall be revised as appropriate, and as soon as is practicable.

3. The <sup>Dir. of P.W.</sup> ~~City Engineer~~ <sup>Town</sup> may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by paragraph V.A.1 above that will be implemented at the construction site. The ~~City~~ may deny approval of any building permit, grading permit, ~~subdivision plat,~~ site development plan, or any other City approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the management practices described in the plans or observed upon a site inspection by the ~~City Engineer~~ are determined not to control and reduce the discharge of sediment, silt, earth, ~~soil,~~ and other materials associated with clearing, grading, excavation, and other construction activities to the maximum extent practicable ~~under the circumstances.~~ <sup>Dir. of P.W. (DPW)</sup>
4. Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in ~~this~~ Subsection V.A.
5. <sup>Town</sup> Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure ~~if such failure causes or contributes to causing the~~ <sup>Town</sup> ~~City~~ to violate a water quality standard, the ~~City's~~ NPDES permit, or any State-issued discharge permit for discharges from ~~its~~ MS4. <sup>Town's</sup>

B. Five-Acre Disturbances

All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of five or more acres of total land area, or that are part of a common plan of development or sale within which five or more acres of total land area are disturbed ~~or~~ who are required to obtain an NPDES permit for storm water discharges associated with construction activity ~~shall~~ comply with the following requirements (in addition to those in Subsection V.A):

1. Any operator who intends to obtain coverage for storm water discharges from a construction site under the NPDES General Permit for Storm Water Discharges From Construction Sites ("the Construction General Permit") shall submit a signed copy of its Notice of Intent (NOI) to the ~~City Engineer~~ <sup>D.P.W.</sup> at least [2] days prior to the commencement of construction activities. If the construction activity is already underway upon the effective date of this Ordinance, the NOI shall be submitted within thirty (30) days. For storm water discharges from construction sites where the operator changes, an NOI shall be submitted at least [2] days prior to when the operator commences work at the site.
2. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Construction General Permit or any individual or group NPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by or under this Ordinance ~~and any other city ordinance.~~

3. ~~On a site of more than one acre in total land area (or a site which is impacted by offsite drainage for more than one acre)~~ the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer. ~~The signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Construction General Permit, or with any applicable individual or group NPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by or under this Ordinance.~~ ~~The SWPPP shall contain the name, title, and business address of the Registered Professional Engineer signing it, and the date that he/she did so.~~
4. The SWPPP shall be completed prior to the submittal of the NOI to the ~~City Engineer~~ <sup>D.P.W.</sup> and, for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit and this Ordinance. ~~Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer, if the original SWPPP was required by paragraph V.B.3 to have been prepared by a Registered Professional Engineer.~~
5. A copy of any NOI that is required by paragraph V.B.1 shall be submitted to the City in conjunction with any application for a building permit, grading permit, ~~subdivision plat approval,~~ site development plan approval, and any other City approval necessary to commence or continue construction at the site.
6. The ~~City Engineer~~ <sup>D.P.W.</sup> may require any operator who is required by paragraph V.B.2 to prepare a SWPPP to submit the SWPPP, and any modifications thereto, to the ~~City Engineer~~ <sup>D.P.W.</sup> for review. Such submittal and review of the SWPPP may be required by the ~~City Engineer~~ <sup>D.P.W.</sup> prior to commencement of or during construction activities at the site.
7. Upon the ~~City Engineer's~~ <sup>D.P.W.</sup> review of the SWPPP and any site inspection that he/she may conduct, the ~~City~~ <sup>Town</sup> may deny approval of any building permit, grading permit, ~~subdivision plat,~~ site development plan, or any other City approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the SWPPP does not comply with the requirements of the Construction General Permit, any individual or group NPDES permit issued for storm water discharge from the construction site, or any additional requirement imposed by or under this Ordinance. ~~Also, if at any time the City Engineer determines that the SWPPP is not being fully implemented, the City may similarly deny approval of any building permit, grading permit, subdivision plat, site development plan or any other City approval necessary to commence or continue construction, or to assume occupancy, at the site.~~ <sup>D.P.W.</sup>
8. Any ~~significant~~ modification to the SWPPP ~~for a site of more than one acre of total land area (or a site which is impacted by offsite drainage from more than one acre)~~ shall be prepared, signed, and sealed by a Registered Professional Engineer as required for the original SWPPP by paragraph V.B.3.
9. All contractors and subcontractors identified in an SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP:

I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification, with the Storm Water Ordinance of the

TOA  
City of \_\_\_\_\_, and with those provisions of the Storm Water Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible.

The certification must include the name and title of the person providing the signature; the name, address, and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

10. The SWPPP, with the Registered Professional Engineer's signature and seal affixed, and the certifications of contractors and subcontractors required by paragraph V.B.9, and with any modifications attached, shall be retained at the construction site from the date of commencement of construction through the date of final stabilization.
11. The operator shall make the SWPPP and any modification thereto available to the ~~[City Engineer]~~ upon request (as well as to EPA and State inspectors).  
D.P.W.
12. The ~~[City Engineer]~~ may notify the operator at any time that the SWPPP does not meet the requirements of the Construction General Permit, any applicable individual or group NPDES permit issued for storm water discharges from the construction site, or any additional requirement imposed by or under this Ordinance. Such notification shall identify those provisions of the permit or Ordinance which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) days of such notification from the ~~[City Engineer]~~ (or as otherwise provided by the ~~[City Engineer]~~), the operator shall make the required changes to the SWPPP and shall submit to the ~~[City Engineer]~~ a written certification that the requested changes have been made.  
D.P.W.
13. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in storm water discharges associated with construction activity. In addition, the SWPPP shall be amended to identify any new contractor and/or subcontractor that will implement a measure in the SWPPP.
14. Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within 24 hours of the end of the storm that is 0.5 inches or greater. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
15. Based on the results of the inspections required by paragraph V.B.14, the site description and/or the pollution prevention measures identified in the SWPPP shall be revised as appropriate, but in no case later than seven calendar days following

the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven calendar days following the inspection.

16. A report summarizing the scope of any inspection required by paragraph V.B.14, and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with paragraph V.B.15 above shall be made and retained as part of the SWPPP for at least three years from the date that the site is finally stabilized. Such report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the facility's NPDES permit, and this Ordinance. The report shall be certified and signed by the person responsible for making it.
17. The operator shall retain copies of any SWPPP and all reports required by this Ordinance or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three years from the date that the site is finally stabilized.
18. Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this Ordinance and by the NPDES permit for those construction activities are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the construction site shall submit to the [City Engineer] a Notice of Termination (NOT) that includes the information required for Notices of Termination by Part VIII of the Construction General Permit.
19. Upon final stabilization of the construction site, the owner (or the duly authorized representative thereof) shall submit written certification to the [City Engineer] that the site has been finally stabilized. (See definition of final stabilization in this Ordinance.) The City may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the [City Engineer] has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

D.P.W.

D.P.W.

D.P.W.

## VI. STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY

- A. All operators of ~~(1) municipal landfills; (2) hazardous waste treatment, disposal, and recovery facilities; (3) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023; and (4) industrial facilities that the [City Engineer] determines are contributing a substantial pollutant loading to the MS4, which are sources of storm water discharges associated with industrial activity, shall comply with the following requirements:~~

D.P.W.

D.P.W.

1. Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the NPDES General Permit for Storm Water Discharges Associated With Industrial Activity ("the Industrial General Permit") shall submit a signed copy of its Notice of Intent (NOI) to the [City Engineer] at least [2] days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of this Ordinance, the NOI shall be submitted within thirty (30) days. Where the operator of a facility with a storm water discharge associated with industrial activity which is covered by the Industrial General Permit changes, the new operator of the facility shall submit an NOI at least [2] days prior to the change.

NPDES  
TPDES are  
interchangeable  
or substitute  
TPDES

2. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under this Ordinance, and any other City ordinance.
3. The SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer. The signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Industrial General Permit, or with any applicable individual or group NPDES permit issued for storm water discharges from the industrial facility, and within any additional requirement imposed by or under this Ordinance. The SWPPP shall contain the name, title, and business address of the Registered Professional Engineer signing it, and the date that he/she did so.
4. The SWPPP shall be completed prior to the submittal of the NOI to the [City Engineer] and, for a new industrial operation, prior to the commencement of the industrial activity at the facility. The SWPPP shall be updated and modified as appropriate and as required by the Industrial General Permit and this Ordinance. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer.
5. A copy of any NOI that is required by paragraph VI.A.1 shall be submitted to the <sup>Town</sup> ~~City~~ in conjunction with any application for a permit or any other <sup>Town</sup> ~~City~~ approval necessary to commence or continue operation of the industrial facility.
6. The <sup>D.P.W</sup> ~~[City Engineer]~~ may require any operator who is required by paragraph VI.A.2 to prepare a SWPPP to submit the SWPPP, and any modifications thereto, to the <sup>DPW</sup> ~~[City Engineer]~~ for review. Such submittal and review of the SWPPP may be required by the ~~[City Engineer]~~ prior to commencement of or during industrial activity at the facility. <sup>DPW</sup>
7. Upon the <sup>Town</sup> ~~[City Engineer's]~~ review of the SWPPP and any site inspection that he/she may conduct, the ~~City~~ may deny approval of any application for a permit or any other ~~City~~ approval necessary to commence or continue operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the Industrial General Permit, any individual or group NPDES permit issued for storm water discharges from the industrial facility, or any additional requirement imposed by or under this Ordinance. [Also, if at any time the ~~[City Engineer]~~ determines that the SWPPP is not being fully implemented, the ~~City~~ may similarly deny approval of any application for a permit or other ~~City~~ approval necessary to commence or continue operation of the industrial facility.] <sup>Town</sup>
8. Any ~~significant~~ modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer, as required for the original SWPPP by paragraph VI.A.3.
9. The SWPPP, with the Registered Professional Engineer's signature and seal affixed, and with any modifications attached, shall be retained at the industrial facility from the date of commencement of operations until all storm water discharges associated with industrial activity at the facility are eliminated and the required Notice of Termination (NOT) has been submitted.
10. The operator shall make the SWPPP and any modification thereto available to the ~~[City Engineer]~~ upon request (as well as to EPA and State inspectors). <sup>DPW</sup>

D.P.W.

Need Inspector

11. The ~~[City Engineer]~~ may notify the operator at any time that the SWPPP does not meet the requirements of the Industrial General Permit, any applicable individual or group NPDES permit issued for storm water discharges from the industrial facility, or any additional requirement imposed by or under this Ordinance. Such notification shall identify those provisions of the permit or Ordinance which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within thirty (30) days of such notification from the ~~[City Engineer]~~ (or as otherwise provided by the ~~[City Engineer]~~), the operator shall make the required changes to the SWPPP and shall submit to the ~~[City Engineer]~~ a written certification that the requested changes have been made.
12. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in storm water discharges associated with industrial activity.
13. Qualified personnel (provided by the operator) shall inspect equipment and areas of the facility specified in the SWPPP at appropriate intervals. A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspection shall be maintained.
14. Qualified personnel (provided by the operator) shall conduct comprehensive site compliance evaluations as required by Part IV.D.4 of the Industrial General Permit at intervals of no less than once per year. Based on the results of the compliance evaluation, the description of potential pollutant sources and the pollution prevention measures and controls identified in the SWPPP shall be revised as appropriate within two weeks of such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve weeks after the compliance evaluation.
15. A report summarizing the scope of the comprehensive site compliance evaluation required by paragraph VI.A.14, personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one year after all storm water discharges from the facility are eliminated and the required NOT has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the applicable NPDES permit, and this Ordinance. The report shall be signed by the individual responsible for the comprehensive site compliance evaluation, and it shall be submitted to the ~~[City Engineer]~~ within ten days of its completion.
16. If the industrial facility is required by Part VI.B.2 of the Industrial General Permit to conduct semi-annual monitoring, a signed copy of each semi-annual monitoring report prepared in accordance with Part VI.D. shall be submitted to the ~~[City Engineer]~~.
17. If the industrial facility is required by Part VI.B.3 of the Industrial General Permit to conduct annual monitoring, records of the monitoring results shall be retained at the facility and made available to the ~~[City Engineer]~~ upon request. If expressly required by the ~~[City Engineer]~~, a written report of the annual monitoring shall be prepared and submitted to the ~~[City Engineer]~~.

18. By written notice, the [City Engineer] may require any industrial facility identified in accordance with this Section VI to implement a monitoring program that includes the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 C.F.R. 122.21(g)(7)(iii) and (iv). The [City Engineer] may require written reports of any such monitoring to be submitted to him/her.
19. By written notice, the [City Engineer] may require any industrial facility identified in this Section VI to conduct semi-annual or annual monitoring of storm water discharges, or the [City Engineer] may specify an alternative monitoring frequency and/or specify additional parameters to be analyzed. The [City Engineer] may require written reports of any such additional monitoring to be submitted to him/her.
20. The operator shall retain the SWPPP until at least one year after storm water discharges associated with industrial activity at the facility are eliminated, or that operator is no longer operating the facility, and a Notice of Termination (NOT) in compliance with paragraph VI.A.24 has been submitted. The operator shall retain all records of all monitoring information, copies of all required reports, and records of all data used to complete the NOI, until at least one year after all storm water discharges associated with industrial activity at the facility are eliminated, or the operator ceases to operate that facility, and the required Notice of Termination (NOT) has been submitted.
21. For discharges subject to the semi-annual or annual monitoring requirements of Part VI.B. of the Industrial General Permit, in addition to the records-retention requirements of the paragraph above, operators are required to retain for a six year period from the date of sample collection, records of all monitoring information collected. Operators must submit such monitoring results, and/or a summary thereof, to the [City Engineer] upon his/her request.
22. ~~As expeditiously as practicable, but in no case later than October 1, 1995, any discharge composed of coal pile runoff shall comply with the following limitations: no discharge shall exceed a maximum concentration for any time of 50 mg/l total suspended solids, nor shall such runoff be diluted with storm water or other flows in order to meet this limitation; the pH of such discharges shall be within the range of 6.0-9.0. Any untreated overflow from facilities designed, constructed, and operated to treat the volume of coal pile runoff which is associated with a ten-year, 24-hour rainfall event shall not be subject to the 50 mg/l limitation for total suspended solids.~~
23. After October 1, 1995, no discharge shall contain any of the following hazardous metals in a concentration exceeding the maximum allowable concentrations (in mg/l) of each of the hazardous metals listed below:

<u>Total Metal</u>	<u>Monthly Average</u>	<u>Daily Composite</u>	<u>Single Grab</u>
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5

Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	0.1	0.2
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

24. Where all storm water discharges associated with industrial activity that are authorized by this Ordinance, and by the NPDES permit for those discharges from industrial activities, are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the ~~[City Engineer]~~ a Notice of Termination (NOT) that includes the information required for Notices of Termination by Part IX of the Industrial General Permit.

- Numbers Change*
- B. Any owner of a facility with a storm water discharge associated with industrial activity to which Subsection A applies, whether or not he/she is an operator of the facility, is jointly and severally responsible for compliance with the best management practices (BMP) measures required in the SWPPP for the facility, ~~and for compliance with the effluent limitations for each toxic and hazardous metals specified in paragraphs VI.A.22 and VI.A.23 above.~~  
*LDK*
- C. Upon request by the ~~[City Engineer]~~, all owners and operators of any facility that experiences a problem complying with the requirements of this Ordinance, the Industrial General Permit, or any applicable individual or group NPDES permit issued for storm water discharges from the industrial facility, shall consult with the ~~[City Engineer]~~, any other representative of the ~~City~~, and any third-party designated by the ~~City~~ in an attempt to achieve compliance as soon as practicable. If compliance is not achieved to the ~~City's~~ satisfaction, the ~~City~~ may, in its discretion, report the noncompliance to EPA and/or the State, and/or the ~~City~~ may itself undertake any enforcement action authorized by Sections IX, XI, or XII of this Ordinance. Exercise of the ~~City's~~ option for consultation under this Subsection VI.C. shall not be a bar against, or prerequisite for, taking any other enforcement action against any owner or operator of the facility.

## VII. COMPLIANCE MONITORING

### A. Right of Entry: Inspection and Sampling

The ~~[City Engineer]~~ shall have the right to enter the premises of any person discharging storm water to the municipal separate storm sewer system (MS4) or to waters of the United States to determine if the discharger is complying with all requirements of this Ordinance, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the ~~[City Engineer]~~ ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Dischargers shall make available to the ~~[City Engineer]~~, upon request, any SWPPPs, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, Notices of Intent, and any other records, reports, and other documents related to compliance with this Ordinance and with any state or federal discharge permit.

1. Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the ~~[City Engineer]~~ will be permitted to enter without delay for the purposes of performing his/her responsibilities.



2. The ~~[City Engineer]~~ shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the discharger's operations.
3. The ~~[City Engineer]~~ may require any discharger to the MS4 or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its storm water discharges, and may specify the frequency and parameters of any such required monitoring.
4. The ~~[City Engineer]~~ may require the discharger to install monitoring equipment as necessary [at the discharger's expense]. 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 storm water flow and quality shall be calibrated to ensure their accuracy.
5. 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 discharger at the written or verbal request of the ~~[City Engineer]~~ and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
6. ~~No~~ Unreasonable delays in allowing the ~~[City Engineer]~~ access to the discharger's premises shall be a violation of this Ordinance.

B. Search Warrants

If the ~~[City Engineer]~~ has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, ~~for any state or federal discharge permit, limitation, or requirement,~~ or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the ~~City~~ designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the ~~[City Engineer]~~ may seek issuance of a search warrant from any court of competent jurisdiction.

VIII. CITIZEN PARTICIPATION [AND PUBLICATION]

A. Citizen Reports of Violations

1. All citizens are encouraged to report to the ~~[City Engineer]~~ or his/her delegate any spills, releases, illicit connections, other instances of anyone discharging pollutants into the MS4 or waters of the United States, and any other violation of this Ordinance of which they become aware.
2. The ~~[City Engineer]~~ will designate an individual or office within his/her ~~division, department, etc.~~ to receive all such citizen reports by telephone, in writing, and in person. A written record of each citizen report will be prepared and kept on file for a period of 3 years, and a copy of the City's record of the report will be furnished to the reporting citizen upon request. Also upon request, the ~~[City Engineer]~~ will inform the reporting citizen of any action undertaken by the ~~City~~ in response to the citizen's report.

[B. Publication of Dischargers in Significant Noncompliance

The ~~[City Engineer]~~ may periodically publish, in a daily newspaper generally distributed within the City, a list of owners and operators of discharges to the MS4 or waters of the United States from sites of construction and industrial activity which, during the previous

6 months, were in significant noncompliance with the requirements of this Ordinance. The term "significant noncompliance" shall mean:

1. Introducing or causing to be introduced into the waters of the United States any discharge that violates a water quality standard;
2. Introducing or causing to be introduced into the MS4 any discharge that causes or contributes to causing the ~~City~~ to violate a water quality standard, the ~~City's~~ NPDES permit, or any state-issued discharge permit for discharges from the ~~City's~~ MS4;
3. Any connection of a line conveying sanitary sewage, domestic or industrial, to the MS4, or allowing any such connection to continue;
4. Any discharge of pollutants to the MS4 or waters of the United States that has caused an imminent or substantial endangerment to the health or welfare of persons or to the environment, or has resulted in the [~~City Engineer's~~] exercise of his/her emergency authority to halt or prevent such a discharge;
5. Any violation that has resulted in injunctive relief, civil penalties, or criminal fine being imposed as a judicial remedy under Section XI of this Ordinance; or
6. Any other violation(s) which the [~~City Engineer~~] determines to be chronic or especially dangerous to the public or to the environment.
7. Any failure to comply with a compliance schedule, ~~whether imposed by the City or by a court~~ <sup>Town</sup> ~~City~~ or ~~by a court~~.

## IX. ADMINISTRATIVE ENFORCEMENT REMEDIES

### A. Warning Notice

When the [City Engineer] finds that any person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, the [~~City Engineer~~] may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the [~~City Engineer~~] to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

### B. Notification of Violation

When the [~~City Engineer~~] finds that any person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, the [~~City Engineer~~] may serve upon that person a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the [~~City Engineer~~]. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the [~~City Engineer~~] within ten (10) days of receipt of the notice. Submission of an explanation and/or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the [~~City Engineer~~] to take any

action, including emergency action or any other enforcement action, without first issuing a Notice of Violation.

C. Consent Orders

The [City Engineer] may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this Ordinance or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Subsections IX.E. and IX.F. and IX.G. of this Ordinance and shall be judicially enforceable.

D. Show Cause Hearing

The [City Engineer] may order any person who has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, to appear before the [City Engineer] and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in paragraph X.A.7 of this Ordinance. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the alleged violator.

E. Compliance Orders

When the [City Engineer] finds that any person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, the [City Engineer] may issue an order to the violator directing that the violator come into compliance within a specified time limit. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4 and waters of the United States. A compliance order may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

F. Remediation, Abatement, and Restoration Orders

When the [City Engineer] finds that a person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, and that such violation has adversely affected the MS4, the waters of the United States or any other aspect of the environment, the [City Engineer] may issue an order to the violator directing him/her to undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4, the waters of the United States, or any other aspect of the environment, and/or to restore any part of the MS4, the waters of the United States, or any other aspect of the environment that has been harmed. Such remedial, abatement, and restoration action may include, but not be limited to: monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action; confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination; prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result

from the violation; restoration or replacement of City property or natural resources damaged by the violation. The order may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this Subsection does not relieve the violator of liability for any violation, including any continuing violation. Issuance of an order under this Subsection shall not be a bar against, or a prerequisite for, taking any other action against any responsible party.

G. Emergency Cease and Desist Orders

When the ~~[City Engineer]~~ finds that any person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) have caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the ~~[City Engineer]~~ may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

1. Immediately comply with all Ordinance requirements; and
2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the ~~[City Engineer]~~ may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The ~~[City Engineer]~~ may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the ~~[City Engineer]~~ that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the ~~[City Engineer]~~ within 7 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

H. "Red Tags"

Whenever the ~~[City Engineer]~~ finds that any operator of a construction site has violated, or continues to violate, any provision of Section V of this Ordinance, or any order issued thereunder, the ~~[City Engineer]~~ may order that a "Red Tag" be issued to the operator, posted at the construction site, and distributed to all City departments and divisions whose decisions affect any activity at the site. Unless express written exception is made by the ~~[City Engineer]~~, the "Red Tag" shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the City associated with a building permit, grading permit, ~~subdivision plat approval,~~ site development plan approval, or any other City approval necessary to commence or continue construction or to assume occupancy at the site. Issuance of a "Red Tag" order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

X. RIGHT TO RECONSIDERATION, HEARING, AND APPEAL

A. Reconsideration and Hearing

1. Any person subject to a Compliance Order under Subsection IX.E, a Remediation, Abatement, or Restoration Order under Subsection IX.F, an Emergency Cease and Desist Order under Subsection IX.G, or a Red Tag Order under Subsection IX.H of this Ordinance may petition the [City Engineer] to reconsider the basis for his/her order within seven (7) days of the affected person's notice of issuance of such an order.
2. Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order.
3. In its petition, the petitioning party must indicate the provisions of the order objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that the petitioner would accept, and whether the petitioning party requests a hearing on its petition.
4. The effect of any Compliance Order under Subsection IX.E, Remediation, Abatement, or Restoration Order under Subsection IX.F, and any Red Tag Order under Subsection IX.H shall be stayed pending the [City Engineer's] reconsideration of the petition, and any hearing thereon, unless the [City Engineer] expressly makes a written determination to the contrary. The effectiveness of any Emergency Cease and Desist Order under Subsection IX.G shall not be stayed pending the [City Engineer's] reconsideration, or any hearing thereon, unless the ~~City Engineer~~ expressly and in writing stays his/her emergency order.
5. Within seven (7) days of the submittal of a petition for reconsideration, the [City Engineer] shall either (1) grant the petition and withdraw or modify the order accordingly; (2) deny the petition, without hearing if no material issue of fact is raised; or (3) if a hearing has been requested and a material issue of fact has been raised, set a hearing on the petition.
6. Written notice of any hearing set by the [City Engineer] pursuant to paragraph X.A.5 above shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.
7. The [City Engineer] may himself/herself conduct the hearing and take evidence, or he/she may designate any employee of the ~~City~~ Town or any specially-designated attorney or engineer to:
  - (a) issue in the name of the ~~City~~ notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
  - (b) take evidence;
  - (c) transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the [City Engineer] for action thereon.

At any hearing held pursuant to this Subsection, testimony taken shall be under oath and recorded. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross-examination as may be

required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

8. After the ~~[City Engineer]~~ has reviewed the evidence, he/she shall either (1) grant the petition; (2) deny the petition; or (3) grant the petition in part and deny it in part. The ~~[City Engineer]~~ may modify his/her order as is appropriate based upon the evidence and arguments presented at the hearing and his/her action on the petition. Further orders and directives as are necessary and appropriate may be issued.

B. Appeal

1. Any person whose petition for reconsideration by the ~~[City Engineer]~~ has not been granted in its entirety and who remains adversely affected by the ~~[City Engineer's]~~ order, or who is subject to an order of the ~~[City Engineer]~~ issued following a Show Cause Hearing under Subsection IX.D, may appeal the action of the ~~[City Engineer]~~ to the City Council by filing a written appeal with the City Council within seven (7) days of the person's notice of the ~~[City Engineer's]~~ adverse action on the petition for reconsideration, or within seven (7) days of the person's notice of the issuance of the order following the Show Cause Hearing, as the case may be.
2. Failure to submit a timely written appeal to the City Council shall be deemed to be a waiver of further administrative review.
3. In its written appeal to the City Council, the appealing party shall indicate the particular provisions of the order objected to, the particular determinations of the ~~[City Engineer]~~ that are contested, the reasons that the ~~[City Engineer's]~~ order and/or determinations are contested, and any alternative order that the appealing party would accept.
4. The effect of the ~~[City Engineer's]~~ order, as issued or modified, shall not be stayed pending the appeal to the City Council, unless the City Council expressly so states.
5. Within twenty one (21) days of the submittal of a written appeal to the City Council, the City Council shall hear and consider the appeal in open meeting. The appellant shall be notified at least ten (10) days in advance of the date and time of the City Council meeting at which the appeal will be heard and considered.
6. The appellant shall have the right to public appearance before the City Council to present oral and written statements in support of his/her appeal. [If the City Council wishes to consider testimony of witnesses or other evidence beyond that in the record of any hearing before the ~~[City Engineer]~~ the City Council may remand the matter to the ~~[City Engineer]~~ for the taking of additional testimony or other evidence.]
7. Upon consideration of any written and oral statements made to the City Council, as well as the record made before the ~~[City Engineer]~~, the City Council shall act on the appeal by affirming, vacating, or modifying the order of the ~~[City Engineer]~~, and/or by remanding the matter to the ~~[City Engineer]~~ for further action.
8. Following final action by the City Council on the appeal, any adversely affected party may challenge such action by the City Council in an appropriate court of competent jurisdiction.

XI. JUDICIAL ENFORCEMENT REMEDIES

A. Civil Remedies

1. Whenever it appears that a person has violated, or continues to violate, any provision of this Ordinance that relates to:
  - (a) the preservation of public safety, relating to the materials or methods used in construction of any structure or improvement of real property;
  - (b) the preservation of public health or to the fire safety of a building or other structure or improvement;
  - (c) the establishment of criteria for land subdivision or construction of buildings, including street design;
  - (d) dangerously damaged or deteriorated structures or improvements;
  - (e) conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
  - (f) point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into the MS4.

– the City may invoke Sections 54.011 - 54.017 of the Texas Local Government Code and petition the State district court or the county court at law of Dallas County, through the City Attorney, for either the injunctive relief specified in paragraph XI.A.2 or the civil penalties specified in paragraph XI.A.3 below, or both the specified injunctive relief and civil penalties.

2. Pursuant to Section 54.016 of the Texas Local Government Code, the City may obtain against the owner or the operator of a facility a temporary or permanent injunction, as appropriate, that:
  - (a) prohibits any conduct that violates any provision of this Ordinance that relates to any matter specified in subparagraphs XI.A.1.(a)-(f) above; or
  - (b) compels the specific performance of any action that is necessary for compliance with any provision of this Ordinance that relates to any matter specified in subparagraphs XI.A.1(a)-(f) above.
3. Pursuant to Section 54.017 of the Texas Local Government Code, the City may recover a civil penalty of not more than \$1,000 per day for each violation of any provision of this Ordinance that relates to any matter specified in subparagraph XI.A.1(a)-(e) above, and a civil penalty of not more than \$5,000 per day for each violation of any provision of this Ordinance that relates to any matter specified in subparagraph XI.A.1(f) above, if the City proves that:
  - (a) the defendant was actually notified of the provisions of the Ordinance; and
  - (b) after the defendant received notice of the Ordinance provisions, the defendant committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance.

B. Criminal Penalties

1. Any person who has violated any provision of this Ordinance, or any order issued hereunder, shall be strictly liable for such violation [regardless of the presence or absence of a culpable mental state] and shall, upon conviction, be subject to a fine of not more than \$2000 per violation, per day [, or any greater fine authorized by State statute].

2. Any person who has knowingly made any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, or any order issued hereunder, or who has falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be subject to a fine of not more than \$2000 per violation, per day [, or any greater fine authorized by State statute].]
3. In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence, or other state of mind of the violator, and any other factor as justice requires.

C. Civil Suit Under the Texas Water Code

Whenever it appears that a violation or threat of violation of any provision of Section 26.121 of the Texas Water Code, or any rule, permit, or order of the Texas Water Commission, has occurred or is occurring within the jurisdiction of the City of <sup>Town</sup> Addison, exclusive of its extraterritorial jurisdiction, the City, in the same manner as the Texas Water Commission, may have a suit instituted in a state district court through its City Attorney for the injunctive relief or civil penalties or both authorized in Subsection (a) of Section 26.123 of the Texas Water Code, against the person who committed or is committing or threatening to commit the violation. This power is exercised pursuant to Section 26.124 of the Texas Water Code. In any suit brought by the City under this Subsection XI.C, the Texas Water Commission is a necessary and indispensable party.

D. Remedies Nonexclusive

The remedies provided for in this Ordinance are not exclusive of any other remedies that the City may have under state or federal law or other City ordinances. The City may take any, all, or any combination of these actions against a violator. The City is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently.

## XII. SUPPLEMENTAL ENFORCEMENT ACTION

A. Performance Bonds

The [City Engineer] may, by written notice, order any owner or operator of a source of storm water discharge associated with construction or industrial activity to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the [City Engineer] to be necessary to achieve consistent compliance with this Ordinance, any order issued hereunder, any required Best Management Practice, and/or any SWPPP provision, and/or to achieve final stabilization of the site. The City may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or any industrial activity at the site, or to assume occupancy, until such a performance bond has been filed.

B. Liability Insurance

The [City Engineer] may, by written notice, order any owner or operator of a source of storm water discharge associated with construction or industrial activity to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value



determined by the [~~City Engineer~~], that is sufficient to remediate, restore, and abate any damage to the MS4, the waters of the United States, or any other aspect of the environment that is caused by the discharge.

C. Public Nuisances

A violation of any provision of this Ordinance, or any order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the [~~City Engineer~~]. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code [ ] governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

XIII. MISCELLANEOUS PROVISIONS

A. Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of constructing, operating, and maintaining the City's MS4, and for reimbursement of costs of implementing its storm water management program as required by EPA or the State, and the cost of implementing this Ordinance, which costs may include, but not be limited to, the following:

1. Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing discharges and reviewing monitoring reports submitted by dischargers;
2. Fees for spill and release reports and responding to spills and releases of oil, hazardous and extremely hazardous substances, and other pollutants; and
3. Other fees as the City may deem necessary to carry out the requirements contained in this Ordinance. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

B. Severability

If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect.

C. Repeal

Ordinance(s) numbered \_\_\_\_\_, as adopted [date(s)], along with any and all amendments thereto, which is [are] incorporated in the \_\_\_\_\_ City Code of Ordinances at \_\_\_\_\_, and any other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

D. Effective Date

This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.