

ORDINANCE NO. ____

AN ORDINANCE AMENDING AND UPDATING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES, TITLE XV. LAND USAGE, CHAPTER 158, STORMWATER POLLUTION CONTROL ORDINANCE; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR OPEN MEETING AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Pflugerville, Texas, recognizes that water is a precious resource that is essential to the public health and safety and economic stability of the City; and

WHEREAS, the City of Pflugerville desires to adequately plan to protect water quality and minimize the effects of runoff from rainwater that is a significant source of pollution that needs to be controlled through realistic and effective plans; and

WHEREAS, the City previously updated and adopted the City's Stormwater Pollution Control Ordinance under Chapter 158, of the City's Code of Ordinances; and

WHEREAS, as authorized under law, and in the best interests of the citizens of Pflugerville, Texas, and its residents, the City Council deems it expedient and necessary to update and revise certain rules and regulations to protect water in furtherance of the public's health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

Section 1: That the Code of Ordinances, City of Pflugerville, Texas, Title XV. Land Usage, Chapter 158, Stormwater Pollution Control Ordinance, is hereby updated and amended as set forth in "Exhibit A" attached hereto and incorporated for all purposes.

Section 2: That the recitals contained in the preamble hereto are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 3: All ordinances or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters herein.

Section 4. Cumulative and Repealer Clause. This ordinance shall be cumulative of all other ordinances of the City of Pflugerville, Texas, and shall not operate to repeal or affect any other ordinances of the City except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed to the extent of such conflict

Section 5. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 6. This Ordinance will take effect upon its adoption by the City Council and publication of the caption hereof in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this ____ day of _____, 2025.

CITY OF PFLUGERVILLE, TEXAS

Victor Gonzales, Mayor

ATTEST:

Trista Evans, City Secretary

APPROVED AS TO FORM:

City Attorney
DENTON NAVARRO RODRIGUEZ BERNAL SANTEE & ZECH, P.C.

Exhibit A

ARTICLE I GENERAL PROVISIONS

§ 158.01. SHORT TITLE.

This chapter shall be known, and may be cited, as the Stormwater Pollution Control Ordinance of the City of Pflugerville, Texas.

§ 158.02. ADMINISTRATION.

The City Manager or their designee shall implement and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon, the City Manager may be delegated to other City personnel. Authorized individuals shall have the authority to enforce this chapter in its entirety.

§ 158.03. INTENT AND PURPOSE

This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) of the City in order to comply with requirements of the rules and regulation set forth in the Texas Pollutant Discharge Elimination System General Permit No. TXR15000, TXR050000, or TXR04000 relating to stormwater discharges from construction sites, industrial sites, and the Small MS4s located in the State of Texas and adopted by the Texas Commission on Environmental Quality (TCEQ) are hereby adopted by the City and incorporated herein as if set forth in full, and shall govern and regulate stormwater discharges associated with construction activity, industrial activity, and the MS4 within the City. All subsequent updates to TXR150000, TXR050000, and TXR040000 will overwrite the preceding version of the general permit. The objectives of this ordinance are to:

- (A) Protect human life, health and property;
- (B) Reduce sedimentation in streams, creeks, lakes, waterways, and the City MS4;
- (C) Minimize expenditures of public money for cleaning sediment out of streets, sidewalks, storm drains, and watercourses;
- (D) Preserve the natural environment of the community;
- (E) Provide for restoration from stormwater discharges into and from the MS4;
- (F) To prohibit illicit connections and discharges to the MS4;
- (G) To control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the small MS4;
- (H) To enforce compliance with the City's ordinances, permits, contracts, or orders;
- (I) To require installation, implementation, and maintenance of control measures;
- (J) To receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this ordinance and related permits, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
- (K) To establish legal authority to implement inspection and enforcement procedures to ensure compliance with this ordinance;

- (L) To respond to non-compliance with BMPs required by the small MS4 consistent with its ordinances or other regulatory mechanism(s);
- (M) To assess penalties, including monetary, civil, or criminal penalties;
- (N) To enter into interlocal agreements or other maintenance agreements;
- (O) Provide authority to the City to enter and inspect private property; as necessary.

Unless exempt, this Ordinance applies to discharges entering the MS4 within the jurisdictional limits of the City. The City Manager, or their designee, has the authority to and shall administer, implement, and enforce the provisions of this chapter.

Authorized individuals under this Ordinance shall have the authority to enforce this chapter in its entirety and shall be designated as a Code Enforcement Administrator or a designee of the City Manager. Any person subject to an industrial or construction TPDES stormwater discharge permit or authorization shall comply with all provisions of the permit and may be required by the City to have authorization to discharge stormwater into the MS4.

§ 158.04. ABBREVIATIONS.

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

BMP	Best management practices
BOD	Five-day biochemical oxygen demand
CEA	Code Enforcement Administrator
CFR	Code of Federal Regulations
City	City of Pflugerville
COD	Chemical oxygen demand
CWA	Clean Water Act
EDM	Engineering Design Manual
EPA	U.S. Environmental Protection Agency
ESCP	Erosion and sedimentation control plan
HHW	Household hazardous waste
LPE	Licensed professional engineer
MEP	Maximum extent practicable
Mg/l	Milligrams per liter
MS4	Municipal separate storm sewer system
MSGP	Multi-sector general permit
NOC	Notice of change
NOI	Notice of intent
NOT	Notice of termination
pH	Measure of acidity or alkalinity

POTW	Publicly owned treatment works
PPM	Parts per million
SWP3	Stormwater pollution prevention plan
TCEQ	Texas Commission on Environmental Quality
TPDES	Texas Pollutant Discharge Elimination System
USC	United States Code

§ 158.05. DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning. Terms not defined herein shall be construed in accordance with customary usage.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

BUILDING. Any structure, either temporary or permanent, with walls and a roof, designed to shelter a person, animal, or property, and occupying more than 100 square feet of area.

CITY. The City of Pflugerville, Texas.

CLEAN WATER ACT. The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et. seq.

CODE ENFORCEMENT ADMINISTRATOR (CEA). City personnel authorized by this code of ordinances to issue citations for any violation of this code, including police officers, code enforcement officers, animal control officers, building official, building inspectors, health inspectors, fire marshal and as amended.

COMMENCEMENT OF CONSTRUCTION. The initial disturbance of soils associated with clearing, grading, excavating, landfilling, and other construction activities.

COMMON PLAN OF DEVELOPMENT. A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development (also known as a “common plan of development or sale”) is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities. A common plan of development does not necessarily include all construction projects within the jurisdiction of a public entity (e.g., a city or university). Construction of roads or buildings in different parts of the jurisdiction would be considered separate “common plans,” with only the interconnected parts of a project being considered part of a “common plan” (e.g., a building and its associated parking lot and driveways, airport runway and associated taxiways, a building complex, etc.). Where discrete construction projects occur within a larger common plan of development or sale but are located one quarter (¼) mile or more apart, and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale, provided that any interconnecting road, pipeline or utility project that is part of the same “common plan” is not included in the area to be disturbed.

CONSTRUCTION ACTIVITY. Soil disturbance, including clearing, grading, excavating, and other construction related activities (e.g., stockpiling of fill material and demolition); and not including routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities). Regulated construction activity is defined in terms of small and large construction activity.

- (I) **SMALL CONSTRUCTION ACTIVITY** Construction activity that results in land disturbance of equal to or greater than one acre and less than five acres of land. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres of land.
- (II) **LARGE CONSTRUCTION ACTIVITY** Construction activity that results in land disturbance of equal to or greater than five acres of land. Large construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five acres of land.

CONSTRUCTION SITE OPERATOR. The entity or entities associated with a small or large construction project that meet either of the following two criteria:

- (A) The entity or entities that have operational control over construction plans and specifications (including approval of revisions) to the extent necessary to meet the requirements and conditions of this general permit; or
- (B) The entity or entities that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan (SWP3) for the site or other permit conditions (for example they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

CONTAMINATED. Containing a harmful quantity of any substance.

CONVEYANCE. Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

DESIGNEE. City personnel authorized by the City Manager to administer, implement, and initiate enforcement investigations and corrective actions of this chapter.

DISCHARGE. When used without a qualifier in this chapter, refers to “Stormwater Discharge”, meaning a point source discharge that is composed entirely of stormwater associated with an industrial activity, a construction activity, a discharge from a municipal separate storm sewer system, or other authorized discharge. “To Discharge” includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

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.

EFFLUENT. Wastewater discharged from any point source prior to entering a water body.

ENGINEERING DESIGN MANUAL (EDM). The City’s guidelines pertaining to the City’s engineering practices and standard details that conform to the City’s Comprehensive Master Plan as well as City standards, codes, and ordinances.

ENVIRONMENTAL PROTECTION AGENCY, U.S. (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 the EPA or such successor agency.

EROSION AND SEDIMENTATION CONTROL PLAN (ESCP). A set of plans prepared by or

under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

FACILITY. Any building, structure, installation, or activity from which there is or may be a discharge of a pollutant.

FERTILIZER. A solid or nonsolid 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 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.

FINAL STABILIZATION. A construction site where any of the following conditions are met:

- (A) All soil disturbing activities at the site have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of 90 percent (%) of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- (B) For individual lots in a residential construction site by either:
 - (1) The homebuilder completing final stabilization as specified in condition (A) above; or
 - (2) The homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization.
- (C) For construction activities on land used for agricultural purposes (for example pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a surface water and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (A) above.
- (D) In arid, semi-arid, and drought-stricken areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:
 - (1) Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by the operator, and
 - (2) The temporary erosion control measures are selected, designed, and installed to achieve 90 percent (%) vegetative coverage within three years.

HARMFUL QUANTITY. The amount of any substance due to volume or concentration that will cause pollution.

HAZARDOUS MATERIAL. 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. This term shall include household hazardous wastes as

classified under 40 CFR Part 261, hazardous substances as listed in Table 302.4 of 40 CFR Part 302, and hazardous wastes identified or listed by the EPA pursuant to 40 CFR Part 261.

HERBICIDE. A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

HYPERCHLORINATED WATER. Water resulting from hyperchlorination of waterlines or vessels, with chlorine concentrations greater than 10 milligrams per liter (mg/L).

ILLICIT CONNECTION. Any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

ILLICIT DISCHARGE. Any discharge to an MS4 that is not entirely composed of stormwater, except discharges pursuant to TXR15000, TXR05000, TXR04000, or a separate authorization.

INDUSTRIAL ACTIVITY. Any of the ten categories of industrial activities included in the definition of “stormwater discharges associated with industrial activity” as defined in 40 Code of Federal Regulations (CFR) § 122.26(b)(14)(i)-(ix) and (xi).

INDUSTRIAL WASTE. Waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or domestic wastewater, or distinct from domestic wastewater.

LICENSED PROFESSIONAL ENGINEER (LPE). A person who has been duly licensed (and registered if practicing as an individual) by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas.

MAXIMUM EXTENT PRACTICABLE (MEP). The technology-based discharge standard for MS4s to reduce pollutants in stormwater discharges that was established by the CWA § 402(p). A discussion of MEP as it applies to small MS4s is found in 40 CFR § 122.34.

MOTOR VEHICLE FLUIDS. 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.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (A) Owned or operated by the U.S., a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under the CWA § 208 that discharges to surface water in the state;
- (B) That is designed or used for collecting or conveying stormwater;
- (C) That is not a combined sewer; and
- (D) That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR § 122.2.

NONSTORMWATER DISCHARGE. Any discharge to the MS4 that is not composed entirely

of stormwater runoff.

NOTICE OF CHANGE (NOC). A written notification from the permittee to the TCEQ executive director providing changes to information that was previously provided to the agency in a Notice of Intent.

NOTICE OF INTENT (NOI). A written submission to the TCEQ executive director from an applicant requesting coverage under this general permit.

NOTICE OF TERMINATION (NOT). A written submission to the executive director from a permittee authorized under a general permit requesting termination of coverage under this general permit.

OIL. Any kind of oil in any form, including but not limited to, petroleum, fuel oil, crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste. This term shall include used oil that 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.

OWNER. The person who owns a facility or part of a facility.

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, lessees, or assigns. This term shall also include all federal, state, and local governmental entities.

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 Tex. Agriculture Code sec. 76.001, as amended).

POINT SOURCE. Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

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; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, 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.

POLLUTANT OF CONCERN. Includes biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids (TSS), turbidity or salination), pathogens, oil and grease, and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from an MS4.

POLLUTION. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface 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.

QUALIFIED PERSONNEL. Individuals who are knowledgeable in the principles and practices of pollution prevention, erosion and sediment controls, and more. They are responsible for the

inspections required under the Construction General Permit (CGP) and Multi-Sector General Permit (MSGP).

RELEASE. The act of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 or conveyances.

SANITARY SEWER (SEWER). The system of pipes, conduits, and other conveyances which carry sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the sewage treatment plant utilized by the City (and to which stormwater, surface water, and groundwater are not intentionally admitted).

STATE. The State of Texas.

STORMWATER. Any surface flow, runoff, and discharge consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN (SWP3). A comprehensive plan developed in accordance with TXR150000 or TXR050000 to manage stormwater quality associated with construction sites and industrial sites.

STRUCTURAL CONTROL (OR PRACTICE). A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to wet ponds, bioretention, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

SURFACE WATER IN THE STATE. Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHW) out 10.36 miles into the Gulf), 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 subject to the jurisdiction of the state. Waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

SUSPENSION ORDER. A written document authorized by the City Manager revoking MS4 discharge access.

TEMPORARY STABILIZATION. A condition where exposed soils or disturbed areas are provided a protective cover or other structural control to prevent the migration of pollutants. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either permanent stabilization can be achieved or until further construction activities take place.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ). The state agency by that name, the regional offices thereof, any state department, agency, or commission that may succeed to the authority of the TCEQ, and any duly authorized official of TCEQ or such successor agency.

TEXAS POLLUTION DISCHARGE ELIMINATION SYSTEM (TPDES). The program delegated to the state by the EPA pursuant to 33 USC §1342(b).

TOXIC or TOXICITY. The occurrence of adverse effects to living organisms due to exposure to toxic materials. Adverse effects caused by conditions of temperature and dissolved oxygen are

excluded from the definition of toxicity. Surface water in the state must be maintained to preclude adverse toxic effects on human health, and on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water or any combination of the three.

TPDES GENERAL PERMIT RELATING TO STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY. General Permit No. TXR150000 issued by TCEQ on February 15, 2008, as authorized under provisions of section 402 of the Clean Water Act and chapter 26 of the Texas Water Code.

TPDES MULTI-SECTOR GENERAL PERMIT RELATING TO STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY. TPDES General Permit No. TXR050000 issued by TCEQ on July 22, 2011, and effective August 14, 2011, as authorized under provisions of section 402 of the Clean Water Act and chapter 26 of the Texas Water Code.

WASHWATER. Any water containing pollutants from the act of cleaning parking lots, vehicles, or building exteriors.

WATERCOURSE. Any defined creek, stream, ditch, arroyo, or other natural conveyance that is capable of passing stormwater across property and onto adjacent property. A watercourse shall have observable banks and is either a natural conveyance or an artificially altered natural conveyance. A conveyance that is contained wholly within a single property and does not convey stormwater off the property onto adjacent property is not considered to be a watercourse for purposes of this chapter.

WATERS OF THE UNITED STATES. Waters of the United States or Waters of the U.S. means the term as defined in 40 CFR § 122.2.

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 30 of the Texas Administrative Code.

WETLAND. An area (including a swamp, marsh, bog, prairie pothole, or similar area) having a predominance of hydric soils that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances supports the growth and regeneration of hydrophytic vegetation. The term “hydric soil” means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation. The term “hydrophytic vegetation” means plant growing in: water or a substance that is at least periodically deficient in oxygen during a growing season as a result of excessive water content. If this definition of wetland conflicts with the federal definition in any manner, the federal definition prevails.

YARD WASTE. Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land clearing operations.

ARTICLE II ILLICIT DISCHARGE PREVENTION

§ 158.21. APPLICATION OF REGULATIONS.

Effective **Xxxxx XX, 2025** the regulations set out in this chapter shall apply to all areas of the MS4 within the corporate limits of the City.

§ 158.22. MINIMUM STANDARDS.

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

§ 158.23. DISCHARGE PROHIBITIONS.

- (A) Prohibition of Illicit Discharges. No person shall discharge or cause to be discharged into the municipal storm sewer system (MS4) or conveyances any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater or authorized non-stormwater discharges.
- (B) Exemptions. It is an affirmative defense to any enforcement action for violations of this section that the discharge was composed entirely of the following:
- (1) Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
 - (2) Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
 - (3) Discharges from potable water sources that do not violate Texas Surface Water Quality Standards;
 - (4) Diverted stream flows;
 - (5) Rising ground waters and springs;
 - (6) Uncontaminated ground water infiltration;
 - (7) Uncontaminated pumped ground water;
 - (8) Foundation and footing drains;
 - (9) Air conditioning condensation;
 - (10) Water from crawl space pumps;
 - (11) Individual residential vehicle washing;
 - (12) Flows from wetlands and riparian habitats;
 - (13) Dechlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards;

- (14) Street wash water excluding street sweeper wastewater;
 - (15) Discharges or flows from emergency fire-fighting activities (emergency fire-fighting activities do not include washing of trucks, runoff water from training activities, test water from fire suppression systems, and similar activities);
 - (16) Other allowable non-stormwater discharges listed in 40 CFR § 122.26(d)(2)(iv)(B)(1);
 - (17) Non-stormwater discharges that are specifically listed in the TPDES Multi-Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000;
 - (18) Discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted; and
 - (19) Other similar occasional incidental non-stormwater discharges such as water from park activities including, but not limited to, splash pads and irrigation, unless the TCEQ develops permits or regulations addressing these discharges
 - (20) Discharges specified in writing by the City as being necessary to protect public health and safety are exempt from discharge prohibitions.
 - (21) Dye testing is an allowable discharge but requires a verbal notification to the City prior to the time of the test.
 - (22) The prohibition shall not apply to any non-stormwater discharge permitted under a TPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the 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 of the MS4.
- (C) Non-Exempt. No affirmative defense shall be available under this section if the discharge of flow in question has been determined by the City Manager or their designee to be a source of a pollutant or pollutants to 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 days beyond such notice. The correctness of the City Manager or their designee's determination that a discharge is a source of a pollutant of pollutants may be reviewed in any administrative or judicial enforcement proceeding.
- (D) Specific Prohibitions.
- (1) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by Article I.
 - (2) No person shall introduce any discharges that causes, or has the reasonable potential to cause, or contribute to, the City violating a Texas Surface Water Quality Standard (Title 30, Texas Administrative Code, Chapter 307).
 - (3) No person shall introduce any discharges that cause, or has the reasonable potential to cause, or contribute to, adverse toxic effects on human health, or on aquatic life, terrestrial life, livestock, of domestic animals, resulting from contact, consumption of aquatic organisms, consumption or water, of any combination or the three.
 - (4) 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 or conveyances:

- (a) Any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other such construction activities, or associated with landfilling or other placement of soil, rock, or other earthen materials.
 - (b) Any motor oil, antifreeze, or any other motor vehicle fluid.
 - (c) Any industrial waste.
 - (d) Any hazardous material, including household hazardous waste, hazardous substances, and hazardous waste.
 - (e) Any wastewater or septic tank waste, grease trap waste, or grit trap waste.
 - (f) Any garbage, trash, or yard waste, including brush, leaves, grass clippings, or other yard waste previously gathered for disposal.
 - (g) Any washwater from a commercial carwash facility or from any vehicle washing, cleaning, or maintenance at any automotive-related facility.
 - (h) Any contaminated runoff from a vehicle salvage yard or storage yard.
 - (i) Any pavement washwater from a service station unless such washwater has passed through a properly functioning and maintained grease, oil, and sand separator before discharge into the MS4 or conveyance.
 - (j) Any ready-mix concrete, mortar, ceramic, or asphalt base material or hydromulch material, or material from the cleaning of vehicles or equipment containing, or used in transporting or applying, such materials.
 - (k) Any swimming pool, fountain, or spa water, including backwash water, containing total residual chlorine of 1 ppm 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.
 - (l) Any introduction of oil into the environment including oil applied to a road or land for dust suppression, weed abatement, or other similar use, or any direct disposal of oil on land or into the MS4 or conveyances.
 - (m) Any washwater from parking garage pavement cleaning, unless such washwater has passed through a properly functioning and maintained grease, oil, and sand separator before discharge into the MS4 or conveyance.
 - (n) Any pesticides, herbicides, and fertilizers not applied according to manufacturer recommendations, state and federal laws, or lacking proper storage and disposal.
- (E) Prohibition of Illicit Connections. No person shall have an illicit connection to the MS4 or allow such a connection to continue.
- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 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 chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

(F) Response to Illicit Discharges.

- (1) The City Manager or their designee has the authority to respond to and contain illicit discharges. The City Manager or their designee shall control the discharge of a spill and prohibit dumping or disposal of material other than stormwater and authorized non-stormwater discharges into waters of the United States and the MS4 in accordance with TPDES General Permit No. TXR040000. Any person in violation of this decision may risk having their discharge authorization to the MS4 terminated. The authorized enforcement agency will notify the violator of the proposed termination of its authorization. The violator may petition the City to reconsider and schedule a hearing. In response to illicit discharges and connections, the City may implement any enforcement actions outlined in this chapter.
- (2) When the person responsible has knowledge of any known or suspected release of materials resulting in or potentially resulting in unauthorized discharges into waters of the United States or the MS4, the person must contain and clean up the release. The City Manager or their designee have the authority to require the installation, implementation, and maintenance of temporary and/or permanent control measures or any other corrective action to remove active illicit discharges and prevent future illicit discharges to the MS4 and waters of the United States. If hazardous materials are released, a spill of reportable quantity, or a discharge that causes an immediate threat to human health or the environment is discharged, the person must immediately notify emergency response agencies, the City, and the TCEQ. If non-hazardous materials are released, the person must notify the City no later than the next business day. Notifications in person or by telephone must be confirmed by written notice to the City Public Works Department

(a) Responsibilities

- (i) If any of the above discharges, a discharge of hazardous waste, or a spill of reportable quantity occurs as established under 40 CFR Part 302, the responsible person must immediately notify the City, emergency responders, and the TCEQ to allow appropriate response measures to be taken. If the responsible person fails to notify the City, a fine may be assessed. Any person responsible for any release as described 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. Immediate notification must include:
 - a. Identity or chemical name of substance released;
 - b. Whether the substance released is hazardous;
 - c. The exact location of the release, including any known waters or other environmental media affected;
 - d. Time and duration of the release at which point the notification is made;

- e. Estimated quantity and concentration of the substance released;
 - f. The source of the release;
 - g. Any known health risks associated with the release, and any medical attention needs for individuals currently exposed;
 - h. Precautions that should be taken by responding staff; and
 - i. Any steps already taken to contain the release.
- (ii) Within 14 calendar 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, submit a written report containing each of the items of information specified above, as well as the following additional information:
- a. The ultimate duration, concentration and amount of released substance;
 - b. All actions taken by the City and responsible party to respond to contain, and clean up the release and to minimize impacts;
 - c. Any known or anticipated health risks associated with the release, acute and chronic;
 - d. Where appropriate, advice regarding medical attention necessary for exposed individuals;
 - e. Observed environmental impacts resulting from the release, including water quality parameter changes, fish kills, and necessary responses taken to protect drinking water; and
 - f. Preventative measures that have been or will be taken by the responsible party to prevent a reoccurrence.
- (iii) The notifications required 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 liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the person responsible of any fine, penalty, or other liability which may be imposed pursuant to this Article or to state or federal law.
- (iv) Any person responsible for the release of an illicit discharge shall reimburse the City for any cost incurred by the City in responding to the illicit discharge.

§ 158.24. SUSPENSION OF MS4 ACCESS.

- (A) Suspension due to Illicit Discharges in Emergency Situations. The City Manager or their designee 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, Surface Waters in the State, or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City Manager or their designee 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.

- (B) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this Article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for reconsideration and a 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 City.

§ 158.25. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to a TPDES industrial or construction stormwater 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 City Manager or their designee prior to the allowing of discharges to the MS4.

§ 158.26. MONITORING OF DISCHARGES.

- (A) Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity or construction activity. Nothing in this section relieves facility and construction site operators of responsibilities to obtain appropriate coverage under general or individual permits through the TCEQ and to notify or otherwise report to the TCEQ in accordance with any such permit. Further, nothing in this section implies that the City is assuming the duties of the TCEQ or EPA for inspection or monitoring of activities required under the TPDES permitting system.
- (B) Access to Facilities.
- (1) The City Manager or their designee shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in place 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 City.
 - (2) Facility operators shall allow the City Manager or their designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that shall be kept under the conditions of a TPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - (3) The City Manager or their designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City Manager or their designee to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The City Manager or their designee shall have 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 City Manager or their designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.

Unreasonable delays in allowing the City Manager or their designee access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with a TPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

- (6) If the City Manager or their designee 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 chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

§ 158.27. 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.

§ 158.28. NOTIFICATION OF SPILLS.

- (A) Hazardous Spills. Notwithstanding other requirements of this chapter, 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 that result in, or may result in, illicit discharges or pollutants discharging into stormwater, the MS4, 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.
- (B) Nonhazardous Spills. In the event of a release of nonhazardous materials, said person shall notify the City 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 City Manager or their designee 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.

ARTICLE III CONSTRUCTION SITE STORMWATER MANAGEMENT

§ 158.31. GENERAL REQUIREMENTS.

This article shall apply to all construction activities that disturb soil within the City and discharge stormwater into the City MS4 or Waters of the United States. All persons that operate construction sites must implement erosion prevention and sediment control measures, along with BMPs, for new development and redevelopment.

(A) Prohibited Discharges. No person shall discharge or cause to be discharged into the City MS4 or surface waters any materials, including but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The following discharges are prohibited:

- (1) Wastewater from washout of concrete vehicles, unless managed by an appropriate control;
- (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- (4) Soaps or solvents used in vehicle and equipment washing; and
- (5) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs, including securely fastened and regularly changed filters.

(B) Exemptions. It is an affirmative defense to any enforcement action for violations of this section that the discharge was composed entirely of allowable non-stormwater discharges identified in Article II.

§ 158.32. EROSION PREVENTION AND SEDIMENT CONTROL.

Operators of public or private “construction activities” shall be required to select, install, implement, inspect, and maintain stormwater control measures in accordance with City’s Engineering Design Manual (EDM), TPDES Construction General Permit, TPDES MS4 General Permit, or other ordinances that may apply to construction activities. Construction activities include, at a minimum, all public and private construction sites. The Operator shall ensure the following minimum requirements are fully implemented to obtain a building permit to begin construction:

(A) Site Development Permit Requirements.

(1) Development of sites one (1) acre or more.

- (a) An NPDES or TPDES compliant SWP3 is currently required by EPA or TCEQ for all construction projects where one (1) or more acres will be disturbed during development. Developments of sites that disturb one (1) acre or more within the City’s jurisdiction shall prepare, implement, and maintain an NPDES or TPDES SWP3 that satisfies EPA or TCEQ regulations and the NPDES or TPDES

construction general permit. The following must be submitted to the City Manager or their designee:

- (i) A copy of the NPDES or TPDES SWP3. Approval of the elements of the NPDES or TPDES SWP3 is not required by the City Manager or their designee. However, the City Manager or their designee may require correction of any deficiencies in the NPDES or TPDES SWP3 and may require additional measures in order to meet the minimum requirements of the pollution control measures section below;
 - (ii) A copy of the TCEQ Notice of Intent (NOI), if the construction activity is disturbing more than five (5) acres. The NOI must be submitted at least two (2) days prior to the commencement of construction activities;
 - (iii) A copy of the Construction Site Notice (CSN); and
 - (iv) A CSN indicating the termination of construction activities. If the construction activity disturbs five (5) or more acres, the Operator must provide the TCEQ Notice of Termination (NOT).
 - (b) If the site is one (1) acre or more, but total soil disturbance area will be less than one (1) acre and more than one-quarter (1/4) acre, an NPDES or TPDES compliant SWP3 is not required; however, an EDM compliant erosion prevention and sedimentation control plan (EPSCP) is required as defined in the EDM. An approved EPSCP must be implemented before construction activities begin.
 - (c) If the site is one (1) acre or more with a total soil disturbance area less than one (1) acre and more than one-quarter (1/4) acre, but the site is part of a larger common plan of development as defined in this chapter, an NPDES or TPDES compliant SWP3 is required and must be implemented before construction activities begin.
- (2) Development of sites less than one (1) acre and more than one-quarter (1/4) acre.
- (a) An approved EPSCP, compliant with EDM criteria, is required for commercial construction, industrial construction, multifamily residential construction, development of a residential subdivision within the City's jurisdictional area where less than one (1) acre but more than one-quarter (1/4) acre will be developed. The area of development will be based upon the platted lot area or, if not platted, upon the area of the tract owned by the developer, including all contiguous property by the same person. Disturbance of a partial area of a tract is not a condition that will cause a change of the category in development size.
 - (b) No person shall be granted a permit, subject to the jurisdiction of the City and Chapter 157 of the Code of Ordinances – Unified Development Code, to commence or continue any site disturbance or development activity on a subject property without City acceptance and approval of an EPSCP.
 - (c) Submission of a site-specific EPSCP is not required for a single-lot, single-family residential construction, unless it is part of a larger development that requires an NPDES or TPDES permit.
 - (d) The EPSCP shall include any measures as required to comply with the pollution control measures section below. An EPSCP shall be submitted to the City Manager

or their designee for review before issuance of a building permit or approval to begin development.

- (e) Implementation of the pollution control measures detailed in the plan is required. (Inspection of the status of the pollution control measures will be performed by City personnel during normal construction inspection and at other times when construction activities may be conducted).
 - (f) A certificate of occupancy will not be issued until the City Manager or their designee is satisfied that all temporary and permanent measures specified by the plan are complete.
 - (g) The City shall not accept any public improvements until all temporary and permanent measures specified by the plan are complete, unless the responsible party has entered into a maintenance agreement with the City.
 - (h) An EPSCP is not required when:
 - (i) A portion of a previously developed tract of land is redeveloped, unless the redevelopment will result in the conversion of more than one-quarter (1/4) acre from a porous surface to an impervious surface; or
 - (ii) The site disturbance is the result of any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (3) Development of sites one-quarter (1/4) acre or less and single-lot, single-family residential construction. A site-specific EPSCP is not required for the development of sites which are one-quarter (1/4) acre in size or less, nor for single-lot, single-family residential construction. However, the responsible party shall comply with the pollution control measures in this chapter and the EDM.
- (a) In order to obtain a building permit, the party responsible should provide written acknowledgement that the party responsible is aware of the pollution control measures of the City and that the responsible party will comply with these measures during the development of the property.
 - (b) In order to obtain a certificate of occupancy, the responsible party shall certify that all necessary temporary or permanent pollution control measures specified in the pollution control measures section in this chapter are in place. If adequate pollution control measures are not in place, the Building Official is authorized to withhold the certificate of occupancy.
 - (c) Prior to requesting acceptance of any public improvements required under subchapter 15.P, Acceptance of Subdivision of the Unified Development Code, as complete, a responsible party must certify that all necessary permanent pollution control measures, other than the required stabilization, are in place. If adequate pollution control measures are not in place, the City Manager or their designee will not accept any improvement required by subchapter 15.P of the Unified Development Code unless the responsible party has entered into a maintenance agreement with the City.
- (4) For purposes of this article, the entire plat or site shall be the area being disturbed unless

otherwise specified within the site plan. The responsible party shall take appropriate measures to ensure no construction related activities disturb any area that is not designated as disturbed on the plat or site plan.

- (5) The SWP3 or EPSCP shall be available for review within 24 hours of a request from the City or TCEQ.
- (6) The SWP3 or EPSCP shall be updated and modified as appropriate and as required by the TPDES CGP, or any individual or group TPDES permit issued for stormwater discharges from the construction site, and this chapter.
- (7) The SWP3 or EPSCP shall be retained at the construction site from the date of commencement of construction through the date of final stabilization.
- (8) If the City Manager or their designee determines that the SWP3 is deficient, a notification will be given to the Operator which identifies the provisions of the permit, ordinance, or EDM that are not being met by the applicable SWP3 and identify which provisions of the SWP3 that require modification.
- (9) Within seven (7) days of a deficiency notification, the Operator must resolve the noted deficiencies and submit to the City Manager or their designee a written certification that the requested changes have been made.
- (10) It is to be understood that the approval of a SWP3 or EPSCP by the City Manager or their designee does not constitute a recognition by the City that the SWP3 or EPSCP will prevent any or all public erosion nuisances, and the City waives no rights to pursue any legal remedies, both under this chapter, and all other applicable ordinances and laws. The approval of the SWP3 or EPSCP shall not be a defense of bar to prosecution under this chapter.

ARTICLE IV
POST-CONSTRUCTION SITE STORMWATER MANAGEMENT FOR
DEVELOPMENT OR REDEVELOPMENT

§ 158.41. GENERAL REQUIREMENTS.

(A) Applicability. This article shall apply to all completed new development and/or redevelopment projects that disturbed one acre or more of land, including projects less than one acre that are part of a larger common plan of development or sale, during construction and discharge of stormwater into the City MS4. All persons that own new development and/or redevelopment projects must consider and account for stormwater quality and quantity by designing, installing, implementing, and maintaining a combination of City-approved permanent stormwater control practices to:

- (1) Protect the integrity of watersheds and preserve the health of water resources, including City creeks and drainage ways;
- (2) Minimize changes to the site hydrology for land disturbance and redevelopment to reduce flooding, streambank erosion, and pollution;
- (3) Implement beneficial site design practices;
- (4) Promote the preservation of green space and other conservation areas; and
- (5) Meet the provisions of the City Stormwater Management Program, Engineering Design Manual (EDM), and the General Permit No. TXR040000.

All persons that own new development and/or redevelopment projects that disturb one acre or more of land, including projects less than one acre that are part of a larger common plan of development or sale, and discharge stormwater into the City MS4, shall implement stormwater control practices to minimize impacts to water quality and quantity in accordance with the City EDM.

(B) Post-Construction Stormwater Management Plan. The City can enforce compliance with the permittee's ordinances, permits, contracts, standards, or orders in accordance with the TPDES General Permit No. TXR040000, the EDM, and the site-specific Post-Construction Plan (PCP). No person shall be allowed to develop property or be granted a building permit for land disturbance activity that would result in disturbing an area equal to or greater than one acre or less than one acre as part of a larger common plan of development of land without City approval of a site-specific PCP developed and implemented in accordance with this article and the City EDM, including details of design, installation, implementation, and maintenance. All persons that own new development and/or redevelopment projects shall develop and provide a site-specific PCP that meets the criteria identified in the City EDM to the City Manager or their designee.

(C) Inspection, Maintenance, and Repair of Stormwater Structural Controls. All persons that own new developments and/or redevelopments shall perpetually maintain the stormwater structural controls within the drainage, floodplain, and maintenance easements associated with the property's plat and in accordance with the City's EDM and the site-specific PCP. The responsible party shall conduct annual post-construction inspections of stormwater structural controls and submit the annual report to the City Manager or their designee. Maintenance activities must be documented and maintained onsite. The maintenance activity documentation

must be made available within 24 hours upon request from the City Manager or their designee.

§ 158.42. SPECIAL LAND USE REQUIREMENTS.

- (A) Applicability. Any plans submitted for a building permit for the development of property that will be used for one of the following uses shall identify the appropriate best management practices, published in the City's EDM and/or in accordance with the MSGP (TXR050000), as applicable. The responsible party shall adopt pollution prevention best management practices applicable to the property use to minimize the exposure of pollutants and their potential to be discharged into the City's MS4.
- (1) Industrial facilities subject to the MSGP;
 - (2) Fueling stations;
 - (3) Vehicle/equipment washing and steam cleaning facilities;
 - (4) Facilities engaged in harmful liquid materials loading and unloading;
 - (5) Facilities engaged in container storage in aboveground tanks;
 - (6) Facilities engaged in container storage of harmful liquids (such as oil, chemicals, and hazardous wastes); and
 - (7) Facilities engaged in outdoor storage of raw materials that are subject to leaching and transport by erosion and sedimentation, such as gravel, sand, topsoil, compost, sawdust, wood chips, building materials, including lumber, which are subject to leaching; and concrete and metal products, which are subject to chemical erosion, corrosion, and leaching.
- (B) Pollution Prevention Measures. The responsible party must design, install, implement, inspect, and maintain effective permanent pollution prevention controls and practices to minimize the discharge of pollutants from the facility in accordance with the MSGP and EDM. At a minimum, such measures shall be designed, installed, implemented and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel washwater, and other washwaters. Washwaters shall be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

ARTICLE V

INSPECTION AND ENFORCEMENT MEASURES

§ 158.51. PUBLIC NUISANCE.

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

§ 158.52. RIGHT OF ENTRY; INSPECTION AND SAMPLING.

The City Manager or their designee may enter and inspect facilities, equipment, practices, and operations subject to regulation under this chapter as often as necessary to determine compliance with this ordinance. If an Operator's security measures require proper identification and clearance before entry into the premises, the Operator shall make necessary arrangements to allow access to the City Manager or their designee. Facility Operators shall allow the City Manager or their designee access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records. The City Manager or their designee shall have the right to monitor and/or sample the facility's discharge to the City MS4. The City Manager or their designee may require the facility Operator to install and maintain necessary sampling and monitoring equipment. 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 facility Operator at the written or oral request of the City Manager or their designee and shall not be replaced. The cost of clearing such access shall be borne by the facility operator. Unreasonable delays in allowing the City Manager or their designee access to a permitted facility is a violation of a stormwater discharge permit and of this chapter.

§ 158.53. ADMINISTRATIVE ENFORCEMENT REMEDIES.

- (A) Warning Notice. The City Manager or their designee may serve a written warning notice to any person that has violated, or continues to violate, any provision of this chapter, or any order issued hereunder.
- (1) The warning notice will cite the alleged non-compliance, requiring the discharger to immediately investigate and seek a resolution whereby any offending discharge will cease.
 - (2) Investigation and resolution of the matter in response to the warning notice in no way relieves the discharger of liability for any violations occurring before or after receipt of the warning notice.
 - (3) Nothing in this subsection shall limit the authority of the City Manager or their designee to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.
- (B) Notice of Violation. A Code Enforcement Administrator (CEA) may serve a written notice of violation when the City Manager finds that any person has violated, or continues to violate

any provision of this article, or any order issued hereunder.

- (1) Within ten days of the receipt of a notice violation, the discharger must provide an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, and shall be submitted by the alleged violator to the CEA.
 - (2) If the alleged violator denies that any violation occurred or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the CEA within ten days of receipt of the notice.
 - (3) Submission, in accordance with this section in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice of violation.
 - (4) Nothing in this section shall limit the authority of the CEA to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.
- (C) Consent Order. A CEA may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for a non-compliance with any provision in this article or any order issued hereunder.
- (1) Agreements pursuant to § 158.52(C):
 - (a) List all action the responsible person will undertake to correct the non-compliance;
 - (b) Include the necessary time period the responsible person requires to complete each action listed in the agreement to correct the non-compliance; and
 - (c) Shall have the same force and effect as the administrative orders issued pursuant to § 158.52(D), (E), and (F) in this section and shall be judicially enforceable.
- (D) Compliance Order. A CEA may issue an order to any person that has violated, or continues to violate any provision of this article, or any order issued hereunder requiring compliance within a specified time.
- (1) Compliance order may contain other requirements in response to a non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4 and surface water in the state.
 - (2) 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.
 - (3) Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(E) Remediation, Abatement and Restoration Orders. A CEA may issue an order directing a discharger to undertake and implement action to remediate or abate any adverse effects of a violation upon the MS4 or the waters of the United States, to any person that has violated, or continues to violate, any provision of this article, or any order issued hereunder when such violation has adversely affected the MS4 or the waters of the United States.

(1) Remedial, abatement, and restoration action may include, but is not limited to:

- (a) Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement and/or restoration action;
 - (b) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollutant or contamination;
 - (c) Prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation; and
 - (d) Restoration or replacement of City property or natural resources damaged by the violation.
- (2) An order for remediation, abatement, or restoration to be accomplished may direct a specified compliance schedule or include a date for required completion.
- (3) An order issued under subsection (E) does not relieve the violator of liability for any violation, including any continuing violation.
- (4) 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.

(F) Emergency Cease and Desist Order. When the CEA determines that a violation is likely to reoccur, and that the discharger's non-compliance have caused or have contributed to an actual or threatened discharge to the MS4, or waters of the United States, and such violation reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the CEA may issue an order to the discharger directing an immediate cease and desist of all such violations.

(1) An emergency order issued pursuant to subsection (F) requires the discharger to:

- (a) Immediately comply with all ordinance requirements; and
 - (b) Take such appropriate preventative action as may be needed to properly address a continuing or threatened violation, including immediately halting operations or terminating the discharge.
- (2) Any person notified of an emergency order shall immediately comply and stop or eliminate its endangering discharge.
- (3) In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the CEA may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, including immediate termination of a facility's water supply, sewer connection, or other municipal utility

services.

- (4) The CEA may allow the person to recommence discharge when it has demonstrated to the satisfaction of the CEA that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article.
 - (5) 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 CEA within two days of receipt of the emergency order.
 - (6) 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.
- (G) Stop Work – Red Tags. When a construction site Operator has violated, or continues to violate, any provision of this article, or any order issued thereunder, the City Manager or a CEA may issue a Red Tag or Stop Work Order, to the Operator.
- (1) Red Tags shall be posted at the construction site, and distributed to all City departments and divisions whose decisions affect activity at the site.
 - (2) Unless express written exception is made by the City Manager or CEA, 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 any City approval necessary to commence or continue construction or to assume occupancy at the site.
 - (3) Issuance of a Red Tag shall not be a bar against, or prerequisite for, taking any other action against the violator.

§ 158.54. PENALTIES; JUDICIAL ENFORCEMENT REMEDIES.

- (A) Any person that has violated or continues to violate any of the provisions of this chapter, or who fails to comply with any provision of this article, or any order issued thereunder, shall be subject to a penalty for each day any such violation continues.
- (B) The remedies provided for in this article 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 discharger and those actions may be taken concurrently.
- (C) Civil Remedies. The City may invoke Tex. Local Government Code secs. 54.011-54.017, as amended, and petition the state district court or the county court at law of Travis County for either the injunctive relief specified in § 158.56, or the civil penalties specified in subsection § 158.54, or both, whenever it appears that a person has violated, or continues to violate, any provision of this article that relates to:
 - (1) The preservation of public safety, relating to the materials or methods used in construction of any structure or improvement of real property;
 - (2) The preservation of public health or to the fire safety of a building or other structure or improvement;

- (3) The establishment of criteria for land subdivision or construction of buildings, including street design;
 - (4) Dangerous damaged or deteriorated structures or improvements;
 - (5) Conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; and
 - (6) Point source effluent limitations or the discharge of a pollutant, other than from a nonpoint source, into the MS4.
- (D) Pursuant to Tex. Local Government Code sec. 54.016, as amended, the City may obtain against the owner or the operator of a facility a temporary or permanent injunction, as appropriate, that:
- (1) Prohibits any conduct that violates any provision of this article, or
 - (2) Compels the specific performance of any action that is necessary for compliance with any provision of this article.
- (E) Pursuant to Tex. Local Government Code sec. 54.017, as amended, the City may recover a civil penalty of not more than \$1,000.00 per day for each violation of any provision of this article, and a civil penalty of not more than \$5,000.00 per day for each violation of any provision of this article, if the City proves that:
- (1) The defendant received notice of the provisions of the ordinance; and
 - (2) After the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to act as necessary for compliance with the ordinance.
- (F) Criminal Penalty. Any person, who has violated any provision of this article, or any order issued hereunder, shall be strictly liable for such violation regardless of the presence or absence of a culpable mental state, except as expressly provided herein, and shall, upon conviction, be subject to a fine of not more than \$2,000.00 per violation, per day, or any greater fine authorized by state statute.
- (G) 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 the article, or any order issued hereunder, or who has falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this article shall, upon conviction, be subject to a fine of not more than \$2,000.00 per violation, per day, or any greater fine authorized by state statute.
- (H) 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 require.

§ 158.55. COST OF ABATEMENT OF THE VIOLATION.

Within thirty (30) 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 ten (10) 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.

§ 158.56. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the City 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.

§ 158.57. APPLICABILITY OF STRICTER REGULATIONS.

In the event stricter rules or regulations are set forth elsewhere in this chapter or are otherwise promulgated by the TCEQ or the United States EPA regarding the same subject matter affected by this chapter, then the more stringent regulations shall apply.

§ 158.58. PRIORITY OF CONFLICTING REGULATIONS.

In the event any other provision of this chapter relating to stormwater pollution or discharge to the City MS4 irreconcilably conflicts with the provisions of this chapter, the provisions of this chapter shall be controlling.