

ORDINANCE NO. O-2024-026

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS, AMENDING CHAPTER 24, "UTILITIES" OF THE HUTTO CODE OF ORDINANCES, BY AMENDING ARTICLE 24.08, "ILLICIT DISCHARGE OF POLLUTANTS INTO MS4 OR CONVEYANCES"; AND PROVIDING FOR: FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, PENALTY, EFFECTIVE DATE, AND PROPER NOTICE & MEETING.

WHEREAS, the City of Hutto, Texas, (the "City"), is a home rule city operating pursuant to the laws of its Charter and of the State and Texas, by and through its duly elected City Council members; and

WHEREAS, the City Council finds certain amendments to the Code of Ordinances are necessary to meet changing conditions and are in the best interest of the City; and

WHEREAS, the City Council deems it necessary to update and amend Chapter 24 of the City of Hutto Code of Ordinances which regulates Utilities; and

WHEREAS, the proposed amendments pursuant to Article 24.08 which regulate the non-stormwater discharges to the municipal separate storm sewer system ("MS4") and are attached as "Attachment A"; and

WHEREAS, the City finds that this ordinance was passed and approved at a meeting of the City Council of the City of Hutto held in strict compliance with the Texas Open Meetings Act at which a quorum of the City Council Members was present and voting; and

WHEREAS, the City Council has determined that all prerequisites to the adoption of this Ordinance have been met.

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

Section 1. Findings of Fact: The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2. Enactment: Chapter 24, Article 24.08, of the Code of Ordinances of the City of Hutto, is hereby amended to read in accordance with **Attachment A** which is attached hereto and incorporated into this Ordinance for all intents and purposes.

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All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

Section 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

Section 5. Codification: The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City’s Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

Section 6. Penalty: That any person, firm, or corporation violating any of the terms or provisions of this ordinance shall be subject to the same penalties provided for in Section 24.08.03 “Criminal Penalties” of the Hutto Stormwater Pollution Prevention Regulations and/or Section 1.01.009 “General Penalty for Violations of Code; Continuing Violations” of the Code of Ordinances of the City of Hutto, Texas.

Section 7. Non-Retroactivity: That nothing in this ordinance shall be construed to affect any prosecution currently pending, or any suit or proceeding currently proceeding in any Court, or any liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance, nor shall any legal right or remedy of the City of any character be lost, impaired, or affected by this ordinance.

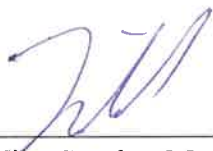
Section 8. Effective Date: This Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the City of Hutto and the laws of the State of Texas.

Section 9. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

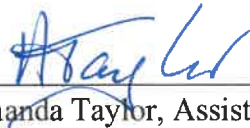
READ and APPROVED on the first reading this the **18th** day of **April 2024**.

READ, PASSED, and ADOPTED on the second reading of this 2nd day of May, **2024** at a regular meeting of the City Council of Hutto, there being a quorum present.

THE CITY OF HUTTO, TEXAS

By: 
Mike Snyder, Mayor

ATTEST:

By: 
Amanda Taylor, Assistant City Secretary

(SEAL)



Chapter 24: Utilities

Article 24.08: Illicit Discharges of Pollutants into MS4 or Conveyances

Summary of ordinance changes

Original Article 24.08 (Ordinance O-13-10-03-11B1 adopted 10/3/13)	
Illicit Discharges of Pollutants into MS4 or Conveyances	
24.08.001	Applicability
24.08.002	Definitions
24.08.003	Minimum Standards
24.08.004	Compliance Obligations
24.08.005	General prohibition; affirmative defenses
24.08.006	Specific prohibitions
24.08.007	Prohibition of illicit connections
24.08.008	Compliance Monitoring
24.08.009	Notification of spills
24.08.010	Enforcement
24.08.011	Right to consideration of enforcement action
24.08.012	Civil remedies; injunctive relief
24.08.013	Violation deemed public nuisance
24.08.014	Criminal penalties

Proposed Amended Article 24.08 (Ordinance O-13-10-03-11B1 Proposed Changes 2023)	
Stormwater Pollution Prevention Regulations	
24.08.001	Purpose and intent
24.08.002	Definitions
24.08.003	Applicability
24.08.004	Responsibility for administration
24.08.005	Compatibility with other regulations
24.08.006	Minimum Standards
24.08.007	Industrial or construction activity discharges
24.08.008	Watercourse Protection
24.08.009	General prohibition; allowable discharges
24.08.010	Specific prohibitions
24.08.011	Prohibition of illicit connections and tampering with the MS4
24.08.012	Construction activity discharges
24.08.013	Overland flow
24.08.014	Long-term maintenance of post-construction stormwater structural controls

Proposed Amended Article 24.08 (Ordinance O-13-10-03-11B1 Proposed Changes 2023)	
Stormwater Pollution Prevention Regulations	
24.08.015	Compliance Monitoring
24.08.016	Best management practices (BMPs) to reduce stormwater pollutants
24.08.017	Notification of spills
24.08.018	Reports of violations
24.08.019	Enforcement
24.08.020	Right to consideration of enforcement action
24.08.021	Civil remedies; injunctive relief
24.08.022	Violation deemed public nuisance
24.08.023	Criminal penalties

ARTICLE 24.08
STORMWATER POLLUTION PREVENTION REGULATIONS
§ 24.08.001. Purpose and intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of Hutto through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) of all incorporated areas of city and all areas located within the city's extraterritorial jurisdiction to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this article are:

- (a) To regulate pollutants from stormwater discharges into and from the MS4;
- (b) To prohibit illicit connections and discharges to the MS4;
- (c) To control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the small MS4;
- (d) To enforce compliance with the permittee's ordinances, permits, contracts, or orders;
- (e) To require installation, implementation, and maintenance of control measures;
- (f) To receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
- (g) To establish legal authority to implement inspection and enforcement procedures to ensure compliance with this ordinance;
- (h) To respond to non-compliance with Best Management Practices (BMPs) required by the small MS4 consistent with its ordinances or other regulatory mechanism(s);
- (i) To assess penalties, including monetary, civil, or criminal penalties; and
- (j) To enter into interagency or interlocal agreements or other maintenance agreements, as necessary.

§ 24.08.002. Definitions.

The following words and phrases, when used in this division, shall, for the purpose of this division, have the meanings respectively ascribed to them in this definitions section, except when the context otherwise requires. Whenever any words and phrases used herein are not defined *herein* but are defined in the federal and state laws regulating illicit discharge, any such definition therein shall be deemed to apply to such words and phrases used herein, except when the context otherwise requires.

Accidental discharge. An act or omission through which waste or other substances are inadvertently discharged into water in the state or a MS4.

Best Management Practices (BMP). Schedule 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 practices, operating procedures, and practices to control runoff, spills or leaks, waste disposal, or drainage from raw materials storage areas.

Business Day. Any day of the week, excluding Saturdays, Sundays, and legal holidays.

Calendar day. When the term “day” is used herein, unless specifically defined otherwise, the term shall mean any day of the week, including Saturdays, Sundays, and legal holidays, with no days being excepted.

City staff. Employees of the city, authorized to act on the city’s behalf by the City Manager.

Clean Water Act (CWA). Formerly referred to as the Federal Water Pollution Control Act (33 USC § 1251 et seq.), and any subsequent amendments thereto.

Common plan of development. 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 the city. Construction of roads or buildings in different parts of the city 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, building complex, etc.). Where discrete construction projects occur within a larger common plan of development or sale but are located one-quarter 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. The disturbance of soils associated with clearing, grading, grubbing, demolition or excavating activities or other construction related activities. This does not include 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).

Conveyance. Any of the following, by way of illustration and not limitation: stream, channel, drainage/dry well, ephemeral stream, floodplain, karst feature, storm drainage system, drainage system appurtenance, water body, watercourse or waterway.

Director. The city employee fulfilling the duties of and holding the title of director of public works, or similar subsequent title designation, or their designee.

Discharge. Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or conveyances.

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.

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 the EPA or such successor agency.

Erosion and sediment control (ESC) plan. A site plan, construction plan, or grading plan set that contains a description and location of all temporary erosion and sediment controls that will be implemented to minimize the discharge of pollutants into the city's MS4 and surface water of the state during construction.

Extremely hazardous substance. Any substance listed in the appendices to 40 CFR part 355, Emergency Planning and Notification.

Extraterritorial jurisdiction (ETJ). The unincorporated area that is contiguous to the corporate boundaries of the municipality based. The extent of the ETJ is based on the number of municipal habitants per the Texas Local Government Code Chapter 42, Subchapter B.

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

Fertilizer material. 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 for compounding a mixed fertilizer as these terms are defined in section 63.001 of the Texas Agriculture Code).

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 have been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Fire department. The Williamson County Emergency Services District, and any other fire departments with which the city has mutual assistance or mutual aid agreements.

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.

Floatables. Anything lighter than water that can float on top of water.

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.

Graywater. Wastewater from showers, bathtubs, handwashing lavatories, sinks that are used for disposal of household or domestic products, sinks that are not used for food preparation or disposal, and clothes-washing machines. Graywater does not include wastewater from the washing of material, including diapers, soiled with human excreta or wastewater that has come into contact with toilet waste.

Groundwater. Any water that is located beneath the surface of the ground and is not under the direct influence of surface water.

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.

Hazardous substance. Any substance listed in table 302.4 of 40 Code of Federal Regulation Part 302.

Hazardous waste. Any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics may:

- (1) Have any of the following characteristics: Toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury or illness.
- (2) Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or defined under 40 CFR part 261.3.

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

Household hazardous waste. Any solid waste generated in a household by a consumer including, but not limited to, products, such as paints, cleaners, oils, batteries, and pesticides that contain potentially hazardous ingredients that require special care upon disposal.

Hyperchlorinated Water. Water resulting from hyperchlorination of waterlines or vessels, with a chlorine concentration greater than 10 milligrams per liter (mg/L).

Hyperchlorination of Waterlines or Vessels. Treatment of potable water lines or tanks with chlorine for disinfection purposes, typically following repair or partial replacement of the waterline or tank, and subsequently flushing the contents.

Illicit connection. Any connection to the MS4 or conveyances that allows for an illicit discharge.

Illicit discharge. Any direct or indirect discharge of pollutant to the MS4 or conveyances, except as specifically exempted in this Article 24.08.

Industrial activity. Any activity at an industrial facility described by the TPDES Multi Sector General Permit, TXR050000, or by any other TCEQ or TPDES permit, including any of the following, by way of illustration and not of limitation: manufacturing, processing, materials storage, and waste materials disposal.

Industrial waste. Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade or business.

Maximum Extent Practicable (MEP). The technology-based discharge standard for municipal separate storm sewer systems (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). The storm drainage system operated and maintained by the city which is comprised of the following: the system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

Non-stormwater discharge. Any discharge to the storm drain system that is not composed entirely of stormwater runoff.

Notice of intent (NOI). The notice of intent that is required by either the industrial general permit or the construction general permit.

National Pollutant Discharge Elimination System (NPDES). 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 Clean Water Act. 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. 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.

(1) Operator. The person or persons who, either individually or taken together, meet the following two criteria: Has operational control over the facility specifications (including the ability to make modifications in specifications); and

Has the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

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

Outfall. A point source at the point where stormwater runoff associated with construction or industrial activity, and certain non-stormwater discharges listed in this permit, exits the

facility and discharge(s) to surface water in the state or a municipal or private separate storm sewer system. An outfall from a diffuse point source includes the point or points where the diffuse point source discharges to surface water in the state or a municipal or private separate storm sewer system.

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 section 76.001 of the Texas Agriculture Code).

Petroleum storage tank (PST). Any one or a combination of above-ground or underground storage tanks or connecting underground pipes that contain petroleum products that are obtained from distilling and processing crude oil and that are capable of being used as a fuel.

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 (40 CFR § 122.2).

Pollutant. A substance, the entrance of which causes or contributes to a violation of applicable water quality standards as defined by the Clean Water Act. This term includes, but is not limited to, paints, varnishes, solvents, oil and other automotive fluids, yard wastes, trash, sediments, household chemicals, detergents, pesticides, herbicides, fertilizers, hazardous materials, sewage, animal wastes, dredged spoil, solid waste, incinerator residue, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water, and other materials exposed to stormwater as a result of construction activity.

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.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or conveyances.

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 stormwater, surface water, and groundwater are not intentionally admitted).

Service station. Any retail establishment engaged in the business of selling fuel for

motor vehicles that is dispensed from stationary storage tanks.

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.

Solid waste. Any garbage, trash, 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.

State. The State of Texas.

Stormwater. Any surface flow, stormwater runoff, snow melt runoff, and surface runoff and drainage consisting entirely of water from any form of natural precipitation.

Stormwater pollution prevention plan (SWP3). 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 pollutants in stormwater discharges associated with construction or other industrial activity at the facility.

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; except that 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.

TCEQ. The Texas Commission on Environmental Quality, or any duly authorized official of said agency.

Texas Pollutant Discharge Elimination System (TPDES). A regulatory program to control discharges of pollutants to surface waters. The program was delegated to the state by the EPA pursuant to 33 USC section 1342(b).

Trash. Nonputrescible solid waste, excluding ashes, that consists of:

- (1) Combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and
- (2) Noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal objects, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Uncontaminated. Not containing a harmful quantity of any substance.

Violator. Any individual, association, homeowners' association, organization, partnership, co-partnership, firm, company, corporation, trust, estate, operator, governmental entity, or any other legal entity, or their legal representatives, agents, lessees, or assigns who knowingly or unknowingly commits an offense of this Article 24.08. This term shall also include all federal, state, and local governmental entities.

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

Wastewater. All liquids and waterborne waste, drainage water, and sewage, whether treated or untreated, from residential dwellings, commercial buildings, or industrial or manufacturing facilities and institutions.

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.

Wetland. 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.

Yard waste. Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

§ 24.08.003. Applicability.

This article shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the city. This article applies to developed and undeveloped lands within the corporate limits of the city, the extraterritorial jurisdiction of the city, or any property owned by the city.

§ 24.08.004. Responsibility for administration.

The city shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the city may be delegated by the city manager to persons or entities acting in the beneficial interest of or in the employ of the city.

§24.08.005. Compatibility with other regulations.

This article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

§ 24.08.006. Minimum standards.

The standards set forth in this article are minimum standards; therefore, no inference is intended that compliance with this article will ensure that there will be no contamination,

pollution, or unauthorized discharge of pollutants. Additionally, no inference is intended that compliance with this article will serve to extend any deadline established by a state or federal standard or requirement, nor is any inference intended that compliance with this article will relieve a discharger of liability for any violation or continuing violation.

§ 24.08.007. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity TPDES stormwater discharge permit shall comply with all provisions of such permit or any other state or federal regulations. Prior to the city allowing discharges to the MS4 or conveyances, the city may require proof of such compliance in a form acceptable to the city.

§ 24.08.008. 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.

§ 24.08.009. General prohibition; allowable discharges.

- (a) General prohibition. No person within the city limits and extraterritorial jurisdiction of the city shall introduce, cause to be introduced, discharge, or cause to be discharged into the municipal separate storm sewer system (MS4) or any conveyances any discharge that is not composed entirely of stormwater. Such prohibition includes commencement of any illicit discharge into the MS4 or any conveyances, and continuation of any illicit discharge into the MS4 or any conveyances.
- (b) Allowable Discharges. 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 (also known as allowable non-stormwater discharges):
 - (1) A discharge specified in writing by the city as being necessary to protect public health and safety.
 - (2) A discharge authorized by a TPDES permit, waiver, or waste discharge order issued to the discharger and administered under authority of the TCEQ or US EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, order, and other applicable laws and regulations.
 - (3) A discharge or flow from emergency fire fighting activities (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, or similar activities).
 - (4) A discharge resulting from the standard municipal operations of street sweeping and street washing activities, which discharge is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful

cleaning substance. This does not include sweeper wastewater.

- (5) A discharge from water line flushing, but not including a discharge from water line disinfection by hyperchlorination or other means unless the total residual chlorine (TRC) has been reduced to less than 1 ppm (part per million) and it contains no harmful quantity of chlorine or any other chemical used in line disinfection that would adversely affect aquatic life.
 - (6) A discharge from a potable water source not containing any harmful quantity of a substance or material from the cleaning or draining of a storage tank or other container or would violate Texas Surface Water Quality Standards.
 - (7) A discharge from lawn watering or landscape irrigation.
 - (8) A discharge from individual residential car washing.
 - (9) A discharge from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant.
 - (10) Swimming pool water that has been dechlorinated so that total residual chlorine (TRC) is less than one (1) ppm (part per million) 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.
 - (11) Stormwater 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.
 - (12) A discharge or flow from diverted stream flows, natural springs, wetlands, and riparian habitats. (13) A discharge or flow from uncontaminated pumped groundwater, rising groundwater, or uncontaminated groundwater infiltration..
 - (14) Uncontaminated discharge from foundation or footing drain (excluding active groundwater dewatering systems), crawl space pump, or sump pump
 - (15) Other allowable non-stormwater discharges listed in 40 CFR §122.26(d)(iv)(B)(1).
 - (16) Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000.
 - (17) Discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted.
 - (18) Other similar occasional incidental non-stormwater discharges such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges.
- (c) Discharge determined to be source of pollutant. No affirmative defense shall be available under this article if the discharge in question has been previously determined by the city to be a source of a pollutant to the MS4 or any conveyances, and written notice of such determination has been provided to the discharger. The city's determination that a discharge is a source of a pollutant may be reviewed in

any administrative or judicial enforcement proceeding.

§ 24.08.010. Specific prohibitions.

- (a) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in section 24.08.005(a).
- (b) No person shall introduce, cause to be introduced, discharge, or cause to be discharged into the MS4 or conveyances any discharge that causes or contributes to causing the city to violate a water quality standard, the city's TPDES 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 or conveyances:
 - (1) Any motor oil, antifreeze, or any other motor vehicle fluid.
 - (2) Any industrial waste.
 - (3) Any hazardous material, including household hazardous waste, hazardous substances, and hazardous waste.
 - (4) Any wastewater or septic tank waste, grease trap waste, or grit trap waste.
 - (5) Any garbage, trash, or yard waste, specifically including but not limited to pressure-treated wood, painted wood, painted wood pallets, laminated wood, insulation, and particle board.
 - (6) Any discharge from a 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 vehicle, including a truck, bus, or heavy equipment, by a business or public entity.
 - (7) Any discharge from a 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.
 - (8) Any discharge from commercial floor, rug, or carpet cleaning.
 - (9) Any discharge 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 discharge 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.
 - (10) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, or emissions filter, or the blowdown from a boiler.
 - (11) Any ready-mixed 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.

- (12) Any runoff or washdown water 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.
- (13) Any swimming pool, fountain, or spa water, including backwash water, containing total residual chlorine (TRC) of 1 ppm (part per million) 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.
- (14) Any discharge from water line disinfection by hyperchlorination or other means if the total residual chlorine (TRC) is at 1 ppm (part per million) or more or if it contains any harmful quantity of chlorine or any other chemical used in line disinfection.
- (15) Any discharge from related fire fighting activities including washing of trucks, run-off from training activities, test water from fire suppression systems, and similar activities. This prohibition does not apply to discharges or flow from emergency firefighting.
- (16) Any contaminated runoff from a vehicle salvage yard or storage yard.
- (17) Any substance or material that will damage the MS4.
- (18) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge 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; and
 - (B) No discharge containing a harmful quantity of any pollutant.
- (19) Any harmful quantity of sediment, silt, earth, soil, or other material which is associated with clearing, grading, excavation or other such construction activities, or which is associated with landfilling or other placement or disposal of soil, rock, or other earth materials.
- (20) 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 conveyances.
- (21) Any introduction of oil into the environment, specifically including but not limited to oil applied to a road or land for dust suppression, weed abatement, or other similar use; or any introduction of oil commingled or mixed with solid waste that is to be disposed of in a landfill; or any introduction of oil by direct disposal on land or in a landfill; or any introduction of oil into the MS4 or conveyances, or into any septic tank.

§ 24.08.011. Prohibition of illicit connections and tampering with the MS4.

- (a) The construction of, use of, maintenance of, or continued use of a new or existing

illicit connection to the MS4 or any conveyances is prohibited. This prohibition expressly includes any illicit connection made before passage of the ordinance codified in this article, regardless of whether such connection was permissible under law or practices applicable or prevailing at the time of connection. A person is deemed to be in violation of this article if the person connects a line conveying wastewater or industrial waste to the MS4 or any conveyances, or allows such a connection to continue.

- (b) It is unlawful to injure or in any way tamper with any part of the MS4, including willfully or negligently clogging any sewer drain.

§ 24.08.012. Construction activity discharges.

- (a) Requirements for all construction activities.

- (1) All operator(s) of construction activities shall use best management practices and good housekeeping measures to control and reduce the discharge, to the MS4 and to surface water in the state, of sediment, silt, earth, soil, and other material associated with demolition, clearing, grading, excavation, and other construction activities to the maximum extent practicable under the circumstances. Best management practices may include, but are not limited to, the following:
 - (A) Ensure that existing vegetation is preserved where possible 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, and protection of trees, preservation of mature vegetation, and other appropriate measures;
 - (B) Use of structural practices to divert flows from exposed soils, storm flows, or otherwise limit runoff and the discharge of pollutants from the site to the extent practicable;
 - (C) Minimization of the tracking of sediments off-site of building materials, including cement, lime, concrete, and mortar, to the MS4 or surface water in the state;
- (2) Prevention of the discharge of building materials, including cement, lime, concrete, and mortar, to the MS4 or surface water in the state;
- (3) 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;
- (4) Implementation of proper waste disposal and waste management techniques, including covering waste materials, providing secondary containment of chemicals and fuels, and minimizing ground contact with hazardous chemicals and trash;
- (5) Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices in good and effective

operating condition; and

- (6) Installation of structural measures during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural measures should be placed downgradient of the construction site, but upstream of the receiving waters to the degree attainable.
 - (7) Any owner of a site of construction activity, whether or not they are an operator, is jointly and severally responsible for compliance with the requirements in subsection (a).
 - (8) Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under their contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any willful or negligent failure on their part to adequately implement that control measure if such failure causes or contributes to causing the city to violate a water quality standard, the city's TPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (b) Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR150000, commonly referred to as the Construction General Permit (CGP), Requirements.
- (1) Operators of construction activities that results in the disturbance of one or more acres of total land area, or that are part of a larger common plan of development or sale, and who are required to obtain coverage under the TPDES CGP for stormwater discharges associated with construction activity, must comply with the following requirements in addition to those in subsection (a):
 - (A) Any operator who intends to obtain coverage for discharges from a construction site under the TPDES CGP must prepare and implement a stormwater pollution prevention plan in accordance with the requirements of the TPDES CGP and with any additional requirements imposed by this article and any other city ordinance.
 - (B) A construction site notice (CSN) must be posted at the construction site prior to the commencement of construction activities. The CSN required to be posted will depend on the size of the construction project as well as the operator role and is explained in the TPDES CGP. The CSN must be posted in a location where it is safely and readily available for viewing by the general public, local, state, and federal authorities.
 - (C) For large construction activities, where five or more acres of land is disturbed including larger common plans of development or sales, a copy of the Notice of Intent (NOI) must be submitted to the city prior to commencement of construction activities. A copy of the CSN for secondary operators must be submitted to the city prior to commencement of construction activities.
 - (D) For small construction sites, where one or more acres but less than five acres of land is disturbed, a copy of the signed CSN for all operators must be submitted to the city prior to the commencement of

construction activities.

- (E) The SWP3 must be developed and implemented prior to the start of construction. The SWP3 must be updated and modified as required by the TPDES permit and this article.
- (F) The SWP3 must be retained on-site at the construction site and made readily available upon request by the city. If the SWP3 is retained off-site, then it shall be made available within 24 hours of the request or as reasonably possible.
- (G) The city may notify the site operator at any time that the SWP3 does not comply with the TPDES CGP or any additional requirement imposed by or under this article. Such notification must identify those provisions of the permit or article which are not being met by the SWP3 and identify which provisions of the SWP3 require modifications in order to meet such requirements.
- (H) If, upon the city's review of the SWP3 (or any modification to the SWP3) and any site inspection that the city may conduct, the city determines that the SWP3 does not comply with the requirements of the TPDES CGP issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this article, the city may issue an order prohibiting the commencement, or the continuation, of any construction activity at the site. Also, if at any time the city determines that the SWP3 is not being fully implemented, the city may similarly issue an order prohibiting the continuation of any construction activity at the site.
- (I) Upon review of the SWP3 and any site inspection that is conducted, the city may deny approval of any building permit, grading permit, or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the SWP3 does not comply with the requirements of the TPDES permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this article. Also, if at any time the city determines that the SWP3 is not being fully implemented, the city may similarly deny approval of any building permit, grading permit, or any other city approval necessary to commence or continue construction, or to assume occupancy, at the site.
- (J) The operator must modify the SWP3 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 surface water in the state, or the waters of the United States, or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants, or in achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity.
- (K) Qualified personnel, provided by the site operator, must inspect disturbed areas of the construction site that do not meet the requirements of final stabilization, areas used for storage of materials that are exposed

to precipitation, structural control measures, and locations where vehicles enter or exit the site. Inspection requirements and frequencies shall be in accordance with the TPDES CGP.

- (L) Based on the results of the inspections, the site description and/or the pollution prevention measures identified in the SWP3 shall be modified as appropriate, but in no case later than seven calendar days following the inspection. Required modifications shall be implemented within seven calendar days following the inspection. Erosion and sediment controls that have been intentionally disabled, run over, removed, or otherwise rendered ineffective must be replaced or corrected immediately upon discovery.
- (M) The operator shall maintain copies of all inspection reports and make them available upon request by the city. The inspection reports shall be retained for at least three years from the date that the site achieved final stabilization.
- (N) Where a site has achieved final stabilization and all stormwater discharges from construction activities that are authorized by this article and by the TPDES CGP are eliminated, or where the operator of all stormwater discharges from the construction site changes, the operator of the construction site must submit to the TCEQ a Notice of Termination (NOT) and a copy of the NOT to the city for large construction activity or submit a copy of the CSN identifying the removal date of the TCEQ Site Notice for small construction activity and for secondary operators at large construction sites.

(c) Erosion and sediment control plan requirements.

- (1) All site plan applicants and site clearing and grading applicants shall submit to the city an erosion and sediment control plan for review and approval prior to the commencement of construction. The erosion and sediment control plan shall be included in the engineering construction plans.
- (2) A person may not start construction on a project without an approved erosion and sediment control plan by the city.
- (3) The city shall review erosion and sediment control plans to determine compliance with this article and any other city code prior to approval. In approving the erosion and sediment control plan, the city may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this article and the preservation of public health and safety.
- (4) The erosion and sediment control plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation.
- (5) The objective of the erosion and sediment control plan is to prevent public erosion nuisances. The prevention of public erosion nuisances can be promoted, in part, by the following goals:

- (A) Reduce sedimentation in streams, creeks, lakes, waterways, storm drains, etc.
 - (B) Protect the quality of the water in the city.
 - (C) Provide, protect, and preserve wildlife habitat.
 - (D) Provide for restoration of sites to reduce the negative environmental impacts of construction activity.
- (6) At a minimum, the erosion and sediment control plan to include the following:
- (A) The existing topography and improvements as well as proposed improvements;
 - (B) Drainage flow arrows
 - (C) The limits of construction (LOC);
 - (D) Scale, project and sheet title, and north arrow on each plan sheet
 - (E) Total disturbed area;
 - (F) Storm drainage features, including existing and proposed bridges, storm drains, culverts, outfalls, etc.;
 - (G) Location and type of all proposed temporary erosion and sediment control practices;
 - (H) Location and type of all proposed permanent erosion and sediment control practices;
 - (I) Design details for all erosion and sediment control practices; and
 - (J) Any additional information or data deemed appropriate by the city.
- (7) Methods of reducing erosion and sedimentation. The following design considerations are necessary:
- (A) Limit the size of disturbed areas to the greatest extent possible.
 - (B) Stabilize and disturbed areas as soon as possible.
 - (C) Controls are required to intercept silt from all disturbed areas.
 - (D) Minimize the extent of sediment leaving the project site.
 - (E) Reduce the concentration of stormwater runoff and promote street flow to the extent possible.
 - (F) Phase erosion and sediment control plans to accommodate changes in drainage patterns that occur during development.
 - (G) Reduce the silte leaving the construction site on the wheels of construction vehicles by providing vehicle washing areas and/or established construction entrances and exits.
 - (H) Preseve and protect existing vegetation to the greatest extent possible.

- (I) Consider the natural topography and soil condition in an attempt to limit the erosion potential.
- (8) Modifications to erosion and sediment control plans.
 - (A) The city may revise approved plans as necessary. Modifications may be requested by the owner/developer, the city, or any state inspection agency.
 - (B) The city may develop a list of minor modifications that may be approved as filed revisions the city. The city of its representatives my approve and list of minor modifications prior to its implementation.
- (9) Permit Required.
 - (A) A person commits an offense if the person performs or causes to be performed any land disturbing activity without an approved site development or construction permit from the city.
 - (B) Each permit application shall be submitted to development services on a form maintained by the city.
 - (C) A person shall include with their construction or site development plans an erosion and sediment control plan for the property for which the land disturbing activity is proposed. Additionally, if applicable, offsite borrow areas, spoil areas and construction staging areas shall be considered as part of the development site and shall be included in the plan.
 - (D) Each application shall include a signed statement by the applicant affirming that any land clearing, grading, construction, or development involving the movement of earth shall be conducted in accordance with the erosion and sediment control plan approved with the site development or construction permit.
- (10) Review and approval.
 - (A) City staff or city engineer, as appropriate, will review each application for a site development or construction permit to determine its conformance with the provisions of this article.
 - (B) After receiving an application, the city shall review the application and:
 - (i) Approve the permit application;
 - (ii) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this article, and issue the permit subject to these conditions; or
 - (iii) Disapprove the permit application, indicating the reason(s) and procedures for submitting a revised application.

§ 24.08.013. Overland flow.

- (a) Drainage patterns must be designed to:

- (1) Prevent erosion;
- (2) Maintain infiltration and recharge of local seeps and springs;
- (3) Attenuate the harm of contaminants collected and transported by stormwater;
and
- (4) Where possible, maintain and restore overland sheet flow, maintain natural drainage features and patterns, and disperse runoff back to sheet flow.
- (5) Stormwater impacts resulting from new development or redevelopment must not adversely affect properties, including those abutting, downstream and in upstream areas.

(b) The applicant shall design an enclosed storm drain to mitigate potential adverse impacts on water quality by using methods to prevent erosion and dissipate discharges from outlets. Applicant shall locate discharges to maximize overland flow through buffer zones or grass-lined swales wherever practicable.

§24.08.014. Long-term maintenance of post-construction stormwater structural controls.

(a) All owners or operators of a new development or redeveloped site shall have a maintenance plan for all stormwater structural controls. The maintenance plan must be filed in the real property records of the county in which the property is located, addressing maintenance requirements for any structural controls installed on site. Operation and maintenance performed shall be documented and retained on site, such as at the offices of the owner or operator and made available for review by the city.

(b) The city has the authority to require installation, implementation, inspection, and maintenance of structural controls meeting or exceeding the requirement of the TPDES Phase II MS4 Permit TXR040000.

(c) Drainage easements shall be required for structural controls and deed recorded.

(d) All owner(s) of structural controls shall be required to have a maintenance plan with the city including a schedule of maintenance activities and plans for certified inspections to assess the functionality of the structural control(s).

(e) In the event that a stormwater facility will be shared by two properties, the property owners sharing the stormwater facility shall execute such agreements, covenants, and easements reasonably required by the city to address joint use of and access to the stormwater facilities.

(f) Owner(s) of stormwater structural controls that discharge or connect to the city's storm drainage and flood mitigation utility or discharge into waters of the United States within the city limits must conduct, at a minimum, a certified inspection of each structural control every three years. The certified inspection report must be prepared by a Texas-licensed engineer.

- (1) The inspection report must include requirements provided by the city, including, but not limited to, the following:

(A) An assessment of the condition of the structural control(s), current as of the date of the report.

- (B) The professional opinion of the engineer regarding the current functionality of the structural control(s).
 - (C) Recommendations of the engineer regarding the need for maintenance or modification of the structural control(s) to meet original design specifications.
 - (2) The city may choose to provide a pre-formatted inspection report to be used for each inspection.
 - (3) The inspection report must be submitted to the city's stormwater program for review. The owner of a structural control(s) must submit a certified inspection report for each structural control by December 31 once every three years.
 - (4) Any maintenance, repair or other deficiencies identified in the certified inspection report must be adequately addressed to ensure compliance with the requirements of this division. Upon completion of all necessary maintenance, repairs or deficiencies identified in the certified inspection report, the owner shall notify the stormwater program of the completion.
- (g) Failure to maintain facilities or practices or provide certified inspection reports.
- (1) If the owner(s) responsible for maintaining the structural control(s) fails to properly maintain the structural control(s) or submit a certified inspection report, the city's stormwater program will send a written notice to the owner(s) to correct the problem within 30 days from the owner(s) receipt of the notice. If the owner(s) fails to comply with the notice, the city may initiate one of the actions specified in section 24.08.019 or 24.08.023.
 - (2) If the structural control(s) becomes a nuisance or danger to public safety or public health, the city shall notify the owner(s) responsible for maintenance of the structural control(s) in writing. Upon receipt of that notice, the owner(s) shall have 30 days to complete maintenance and repair requirements. If the owner(s) of the structural control(s) fails to comply with the requirements of the maintenance and/or repair notice, the city may initiate one of the actions specified in section 24.08.019 or section 24.08.026.

§ 24.08.015. Compliance monitoring.

(a) Right of entry; inspection and sampling; examination of records. City staff shall have the right to enter any facility or site, including industrial and construction facilities or sites, which are discharging to the MS4 or any conveyances, to determine if the discharger is complying with all requirements of this article as well as state and federal rules and regulations.

- (1) Dischargers shall allow city staff immediate access to all parts of the premises for the purposes of inspection, sampling, records examination, and copying, and for the performance of any additional inspections or duties.
- (2) Dischargers shall make available to city staff, upon request, any SWP3s (stormwater pollution prevention plans), 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 article and with any state or federal discharge permit.

- (3) Where a discharger has security measures in force which require proper identification and clearance before entry onto its premises, the discharger shall make necessary arrangements to allow city staff access, upon presentation of suitable identification, without delay for the purposes of performing the city's responsibilities.
 - (4) City staff shall have the right to set up on the discharger's property or require installation on the discharger's property of such devices as city staff deem necessary to conduct sampling and/or metering of the discharger's operations.
 - (5) City staff may require any discharger to the MS4 or any conveyances to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges at the discharger's expense, and may specify the frequency and parameters of any such required monitoring.
 - (6) City staff 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 stormwater flow and quality shall be calibrated to ensure accuracy.
 - (7) 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 city staff and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
 - (8) Unreasonable delays in allowing the city access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with an NPDES/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 article.
 - (9) Unreasonable delays in allowing city staff access to the discharger's premises shall be deemed a violation of this article.
- (b) Search warrants. If city staff has been refused access to any part of the premises from which stormwater is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this article, 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 article 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.

§ 24.08.016. Prevent, control, and reduce stormwater pollutants using best management practices (BMPs).

The city will require BMPs for any activity, operation, or premises which may cause or

contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or premises shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the city's storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that 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 MS4. Compliance with all terms and conditions of a valid NPDES/TPDES permit authorizing the discharge of stormwater associated with industrial activity and/or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a SWP3 as necessary for compliance with requirements of the NPDES/TPDES permit.

§ 24.08.017. Notification of spills.

- (a) Notwithstanding other requirements of law, as soon as any discharger or operator of a facility or operation, or person 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 an illicit discharge, such person shall take all necessary steps to ensure the discovery, containment, and cleanup of such discharge.
- (1) Hazardous materials spill. In the event of discharge of hazardous materials, the discharger shall immediately notify emergency response agencies. Once the immediate threat has been properly contained, the discharger shall notify the city via its director of public works.
 - (2) Non-hazardous materials spill. In the event of a release of non-hazardous materials, the discharger shall notify the city, via its director of public works, in person or by telephone, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the director within three (3) business days of the date of the discharge. .
- (b) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a minimum of three (3) years.

§ 24.08.018. Reports of violations.

Citizens may, and are encouraged to report any spills, releases, illicit connections, or any other instances of anyone discharging pollutants into the MS4, surface water in the state, or the waters of the United States, and any other violation of this article to the city. The city will keep the identity of the reporting citizen confidential, and upon request, inform the reporting citizen of any action undertaken by the city in response to the citizen's report.

§ 24.08.019. Enforcement.

- (a) Enforcement options. When the city determines that a violation of this article has occurred or is occurring, the following remedies are available to the city or their designee. The remedies provided for in this section or elsewhere in this article are

not exclusive. The city or their designee may take any, all or any combination of these actions against a violator, consecutively or concurrently:

- (1) Issuance of a verbal warning;
 - (2) Issuance of a written notice;
 - (3) Issuance of a citation;
 - (4) Execution of a consent order;
 - (5) Issuance of a compliance order;
 - (6) Emergency cease and desist order;
 - (7) A stop work order;
 - (8) Nuisance abatement, if applicable;
 - (9) Permit suspension or revocation proceedings, if applicable;
 - (10) Disconnection from MS4 or suspension of utility service;
 - (11) Request the city attorney to institute suit for civil remedies as provided by this chapter, or state or federal law; or
 - (12) Any other remedy provided in this chapter.
- (b) Notice of violation. When the city determines that a violation under Article 24.08 has occurred or is occurring, or any order issued hereunder, the director, or their designee, may serve upon the alleged violator a written “notice of violation”. Within ten (10) days of issuing of such “notice of violation,” the alleged violator shall submit to the director a written explanation of the violation and a written plan for the satisfactory correction and prevention of recurrence thereof, including specific required actions. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, a written explanation of the basis of any such denial or contention shall be submitted by the alleged violator to the director within seven (7) days of receipt of the “notice of violation.” Submission of an explanation and/or plan shall in no way relieve the alleged violator of liability for any violation occurring before or after receipt of the “notice of violation.” Nothing herein shall limit the authority of the city and the director to take any action, including emergency action or any other enforcement action, in the absence of issuance of a “notice of violation.”
- (c) Voluntary consent order. The Director of public works, may enter into a “voluntary consent order,” an assurance of voluntary compliance, or other similar agreement with any violator noncompliant with any provision of this article or any order issued hereunder. Such document may include specific action to be taken by the violator to correct noncompliance within a time period specified by the director. Such agreement shall have the same force and effect as administrative orders issued pursuant to this article, and same shall be judicially enforceable.
- (d) Mandatory compliance order.
- (1) When city staff determines that any discharger has violated, or continues to

violate, any provision of this article, or any order issued hereunder, the director may issue a “mandatory compliance order” to the violator ordering any one or more of the following:

Compliance within time limit: Directing that the violator come into compliance within a specified time limit. Such an order also may contain other requirements to address noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the MS4 or conveyances.

(A) Remediation, abatement, and/or restoration: Directing that the violator (if the violation has adversely affected the MS4 or conveyances or any other aspect of the environment) undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4 or conveyances or any other aspect of the environment, and/or to restore any part of the MS4 or conveyances or any other aspect of the environment that has been harmed. Such remedial, abatement, and restoration action may include but shall 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 pollutant or contamination; prevention, minimization, and/or mitigation of any damage to the public health, safety, welfare, or the environment that may result from the violation; and restoration or replacement of city property or natural resources damaged by the violation. Such an 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. Any expenses related to the remediation, abatement, and/or restoration incurred by the city shall be fully reimbursed by the person deemed responsible by the director. If the amount due is not paid in a timely manner, as determined by decision of the city, then the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(B) Emergency cease and desist order: Directing that the violator immediately cease and desist from all violations (if the violation(s) have caused or contributed to an actual or threatened discharge to the MS4 or any conveyances which reasonably appears to present an imminent or substantial endangerment to the health, safety, or welfare of persons or to the environment; or if past violation(s) are likely to recur). The “emergency cease and desist order” may also direct the violator to:

(i) Immediately comply with all requirements of this article; and

(ii) 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 violator notified of an “emergency cease and desist order” shall immediately comply and stop or eliminate the endangering discharge. In the event of a violator’s failure to immediately comply voluntarily

with the “emergency cease and desist order,” the city and city staff may take such steps as it/they deem necessary to prevent or minimize harm to the MS4 or conveyances, and/or endangerment to persons or to the environment. Any expenses related to the remediation, abatement, and/or restoration incurred by the city shall be fully reimbursed by the person deemed by the director to be responsible. If the amount due is not paid within a timely manner, as determined by decision of the city, then the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The city may allow the violator to recommence its discharge when it has demonstrated to the satisfaction of city staff that the period of endangerment has passed, unless further termination proceedings are initiated against the violator under this article. A violator that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit the following to the director within five (5) days of receipt of the “emergency cease and desist order”: a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence. 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.

(C) Construction stop work order regarding illicit discharge: Whenever city staff finds that any operator of a construction site has violated, or continues to violate, any provision of this article, or any order issued hereunder, the director may order that a “construction stop work order regarding illicit discharge” be issued to the operator or person responsible, posted at the construction site, and distributed to all city departments and divisions whose decisions affect any activity at such site. Unless express written exception is made by the city, the “construction stop work order regarding illicit discharge” 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, or any other city authorization necessary to commence or continue construction or to assume occupancy at the site. Issuance of a “construction stop work order regarding illicit discharge” shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(2) A “mandatory compliance order” may not extend the deadline for compliance established by a state or federal standard or requirement, nor shall a “mandatory compliance order” relieve the violator of liability for any violation, including any continuing violation.

(3) Issuance of a “mandatory compliance order” shall not be a bar against, or a prerequisite for, taking any other action against the violator or any responsible party.

(e) Disconnection from MS4.

(1) Any discharger in violation of this article may have their MS4 connection terminated by city staff, if such disconnection would abate or reduce an illicit

discharge. The city has the right to require the violator to disconnect from the MS4 at the violator's expense, or require the discharger to take corrective action to eliminate the source of the illicit discharge. A discharger commits an offense if they reinstate an MS4 connection previously terminated pursuant to this article, without the prior written approval of the city.

- (2) Without any prior notice, city staff may terminate a discharger's MS4 connection when such action 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 any conveyances. If the discharger fails to comply with any order issued in such an emergency, the city may take such steps as it deems necessary to prevent or minimize damage to the MS4 or any conveyances, and to minimize danger to persons.

§ 24.08.020. Right to reconsideration of enforcement action.

- (a) Any discharger subject to an order under section 24.08.010 of this article may petition the city's director of public works to reconsider the basis for the order within seven (7) days of the affected person's notice of issuance of such an order.
- (b) After the director has reviewed relevant documents and evidence, they shall (i) grant the petition, or (ii) deny the petition, or (iii) grant the petition in part and deny it in part. The director may modify the order as is appropriate based upon all the documents and evidence. Further orders and directives as are necessary and appropriate may be issued. The decision of the director shall be final and shall be non-appealable.

§ 24.08.021. Civil remedies; injunctive relief.

It shall be unlawful for any person to violate any provision of this article, or to fail to comply with any of the requirements of this article. If a discharger has violated or continues to violate the provisions of this article, the city may avail itself of any and all civil remedies available to it, including petitioning the courts for a preliminary or permanent injunction restraining the discharger from activities which would create further violations or compelling the discharger to perform abatement or remediation of the violation.

§ 24.08.022. Violation deemed public nuisance.

Any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is therefore declared and deemed a public 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 by the city.

§ 24.08.023. Criminal penalties.

- (a) A discharger that violates any provision of this Article 24.08, or any order issued hereunder, commits an offense punishable by a fine not to exceed \$500.00 per violation, per day, or any greater fine authorized by state statute. Proof of a culpable mental state is not required for conviction of an offense under this subsection.

- (b) A discharger that violates any provision of this Article 24.08, or any order issued hereunder, intentionally, knowingly, recklessly, or with criminal negligence commits an offense punishable by a fine not to exceed \$2,000.00 per violation, per day, or any greater fine authorized by state statute.
- (c) Any discharger 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 Article 24.08, 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 be guilty of a misdemeanor and, 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.
- (d) 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.
- (e) The remedies provided for in this Article 24.08 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, and these actions may be taken concurrently.