

CITY OF KRUM, TEXAS

ORDINANCE NO. 2024-795

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KRUM, TEXAS AMENDING THE CITY'S CODE OF ORDINANCES BY REVISING CHAPTER 13, "UTILITIES," ARTICLE 13.14, "STORMWATER PROTECTION," TO REPEAL AND REPLACE ENTIRETY SAID ARTICLE WITH A NEW ARTICLE 13.14, "STORMWATER UTILITY PROTECTION"; ADDING KRUM CODE OF ORDINANCES APPENDIX A, "FEE SCHEDULE," ARTICLE A11.000, "UTILITY FEES," SUBSECTION A11.017, "STORMWATER UTILITY FEES"; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY, PROVIDING FOR A PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Krum, Texas is a Home Rule Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City of Krum, Texas, is given authority by Chapter 51 of the Local Government Code to self-governance with the authority to amend an ordinance; and

WHEREAS, the City of Krum, Texas, adopted Ordinance No. 2011-02-01 which established Storm Water Regulations; and

WHEREAS, the City of Krum is required to impose controls to reduce the discharge of pollutants in storm water to the maximum extent practicable using management practices, control techniques and system design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants; and

WHEREAS, the City of Krum recognizes the Storm Water System and Program as a utility; and

WHEREAS, the City of Krum may adopt fees in order to offset costs associated with the administration, investigation and implementation of the storm water utility regulations adopted; and

WHEREAS, the City Council hereby finds and determines that the adoption of this Ordinance is necessary for the public health, safety and welfare of the citizens of the City of Krum, Texas.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KRUM, DENTON COUNTY, TEXAS:

SECTION 1
INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2
FINDINGS

That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

SECTION 3
AMENDMENTS

3.01 That the City of Krum Code of Ordinances, Chapter 13, "Utilities," Article 13.14, "Stormwater Protection," is hereby repealed in its entirety and shall be replaced as follows:

"ARTICLE 13.14
STORMWATER UTILITY PROTECTION

§ 13.14.000 **Intent and Purpose**

This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) of the City of Krum, hereinafter referred to as 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 and TXR04000 relating to construction sites that discharge stormwater associated with construction activity and Small MS4s located in the State of Texas and adopted by the Texas Commission on Environmental Quality 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 and the MS4 within the City. All subsequent updates to TXR150000 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 permit, 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; and
- (n) To enter into interlocal agreements or other maintenance agreements, as necessary.

Unless exempted, this Ordinance applies to discharges entering the MS4 within the jurisdictional limits of the City. The City has the authority to and shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the city engineer or his or her designee to persons or entities acting in the beneficial interest of the City.

Authorized individual(s) under this Ordinance shall have the authority to enforce this Ordinance in its entirety and shall be designated as a city engineer. 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.

§ 13.14.001 Abbreviations and definitions.

- (a) Abbreviations. The following abbreviations, when used in this article, shall have the designated meanings:

BMP	Best management practices
BTEX	Benzene, toluene, ethylbenzene, and xylene
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
HHW	Hazardous household waste
mg/l	Milligrams per liter

MS4 Municipal separate storm sewer system
NOC Notice of Change
NOI Notice of Intent
NOT Notice of Termination
TPDES Texas Pollutant Discharge Elimination System
ppb Parts per billion
PST Petroleum storage tank
RLA Registered landscape architect
RPE Registered professional engineer
RQ Reportable quantity
SWPPP Stormwater pollution prevention plan
TCEQ Texas Commission on Environmental Quality
TPH Total petroleum hydrocarbons
USC United States Code

- (b) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

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

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

City. The City of Krum, Texas, or the city council.

City engineer. The person appointed to the position of city engineer by the city council or his/her duly authorized representative.

Coal pile runoff. The rainfall runoff from or through any coal storage pile.

Commencement of construction. The disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

Commercial. Pertaining to any business, trade, industry, or other activity engaged in for profit.

Common Plan of Development or Sale. A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. 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.

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 right-of-ways, and similar maintenance activity.)

Small Construction Activity is construction activity that results in land disturbances equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) 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 (1) and less than five (5) acres of land.

Large Construction Activity is construction activity that results in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) 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 (5) acres of land.

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.

Director of Public Works. The person appointed to the position of director of public works by the city council or his/her duly authorized representative.

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.

Domestic sewage. Human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.

Environmental Protection Agency (EPA). The United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.

Extremely hazardous substance. Any substance listed in the appendices to 40 CFR part 355, emergency planning and notification.

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

Fertilizer. A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two (2) 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. 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 cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Fire department. The fire department of the city or any duly authorized representative thereof.

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.

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.

Harmful quantity. The amount of any substance that will cause pollution of water in the state.

Hazardous household waste (HHW). Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR part 261.

Hazardous substance. Any substance listed in table 302.4 of 40 CFR part 302.

Hazardous waste. Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR part 26.

Hazardous waste treatment, disposal, and recovery facility. All contiguous land, and structures, other appurtenances, and improvements on the land, used for the treatment, disposal, or recovery of hazardous waste.

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

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

Illicit Discharge. Any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges pursuant to a TPDES stormwater general permit or a separate authorization and discharges resulting from emergency firefighting activities.

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

Land Disturbance Activity. Any activity which changes the volume or discharge rate of stormwater runoff from the land surface. This includes grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Maintenance Agreement. A formal contract between a local government and a property owner to guarantee long-term maintenance of stormwater management practices.

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 landfill (or landfill). An area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, an injection well, or a pile (as these terms are defined in regulations promulgated by the TCEQ).

Municipal solid waste. Solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.

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

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

Notice of Change (NOC). A written notification from the permittee to the executive director providing changes to information that was previously provided to the agency in a notice of intent.

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

Notice of termination (NOT). The notice of termination required by either the industrial general permit or the construction general permit.

NPDES general permit for stormwater discharges associated with industrial activity (or industrial general permit). The industrial general permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent

modifications or amendments thereto.

NPDES general permit for stormwater discharges from construction sites (or construction general permit). The construction general permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41217 on September 9, 1992, and any subsequent modifications or amendments thereto.

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

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.

Operator. The person or persons who, either individually or taken together, meet the following two (2) criteria:

- (1) They have operational control over the facility specifications (including the ability to make modifications in specifications); and
- (2) They have day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

Outfall. A point source at the point where a small MS4 discharges to waters of the United States and does not include open conveyances connecting two (2) municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. Sheet flow leaving a linear transportation system without channelization is not considered an outfall. Point sources such as curb cuts; traffic right-of-way barriers with drainage slots that drain into open culverts, open swales or an adjacent property, or otherwise not actually discharging into waters of the United States are not considered an outfall.

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, or assigns. This definition includes 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 product. A petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. (The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.)

Petroleum storage tank (PST). Any one or combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.

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

Pollutant. In accordance with the Texas Water Code, §26.001(13) a pollutant includes the following: dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state. The term pollutant does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pastureland, and farm land.

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.

Qualified personnel. Persons who possess the appropriate competence, skills, and ability (as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally accepted industry standards for such activity.

Redevelopment. Alterations of a property that changed the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. This term does not include such activities as exterior remodeling, routine maintenance activities, and linear utility installation.

Registered landscape architect (RLA). A person who has been duly licensed and registered to practice landscape architecture by the Texas Board of Architectural Examiners.

Registered professional engineer (RPE). A person who has been duly licensed and registered by the state board of registration for professional engineers to engage in the practice of engineering in the state.

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

Reportable quantity (RQ). For any hazardous substance, the quantity established and listed in table 302.4 of 40 CFR part 302; for any extremely hazardous substance, the quantity established in 40 CFR part 355 and listed in Appendix A thereto.

Rubbish. Non putrescible solid waste, excluding ashes, that consist 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 furniture, and similar materials that do not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).

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).

Septic tank waste. Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Service station. Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

Sewage (or sanitary sewage). The domestic sewage and/or industrial waste that is discharged into the city sanitary sewer system and passes through the sanitary sewer system to the city sewage treatment plant for treatment.

Small municipal separate storm sewer system (MS4). A utility that conveys or system of conveyances (including roads with drainage systems municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (1) Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over 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 CWA § 208;
- (2) Designed or used for collecting or conveying stormwater;

- (3) Which is not a combined sewer;
- (4) Which is not part of a POTW as defined in 40 CFR § 122.2; and
- (5) Which was not previously regulated under a National Pollutant Discharge Elimination System (NPDES) or a Texas Pollutant Discharge Elimination System (TPDES) individual permit as a medium or large municipal separate storm sewer system, as defined in 40 CFR §§122.26(b)(4) and (b)(7).

This term includes systems similar to separate storm sewer systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. This term does not include separate storm sewers in very discrete areas, such as individual buildings. A very discrete system also includes storm drains associated with certain municipal offices and education facilities serving a nonresidential population, where those storm drains do not function as a system, and where the buildings are not physically interconnected to a small MS4 that is also operated by that public entity.

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, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

State. The State of Texas.

Stormwater and stormwater runoff. Stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater discharge associated with industrial activity. The discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is within one of the categories of facilities listed in 40 CFR section 122.26(b)(14), and which is not excluded from EPA's definition of the same term.

Stormwater pollution prevention plan (SWPPP). A plan required by either the construction general permit or the industrial general permit and which describes and ensures the implementation of practices that are to be used to reduce the 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, vegetation-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.

Texas Pollutant Discharge Elimination System (TPDES) Stormwater Discharge Permit. A permit issued by the TCEQ, under the authority of Texas Water Code Sections 26.027 or 26.040 that authorizes the discharge of pollutants into or adjacent to water in the state. The TPDES program is administered under the authority delegated pursuant to 33 U.S.C. Section 1342(b).

Uncontaminated. Not containing a harmful quantity of any substance.

Used oil (or used motor oil). Any oil that has been refined from crude oil or synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with state and federal law.

Water in the state (or water). 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.

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.

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

Wetland. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard waste. Leaves, grass clippings, yard and garden debris, and brush that results from

landscaping maintenance and land-clearing operations.

§ 13.14.002 General prohibition.

- (a) The City has the authority to prohibit illicit discharges and illicit connections in accordance with TPDES General Permit No. TXR150000 and TXR040000. This ordinance prohibits unauthorized discharges into the MS4.
- (b) No person shall introduce or cause to be introduced an illicit discharge or illicit connection into the MS4 for any reason.
- (c) No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater.
- (d) It is an affirmative defense to any enforcement action for violation of subsection (a) of this section that the discharge was composed entirely of one or more of the following categories of discharges:
 - (1) A discharge authorized by, and in full compliance with, an TPDES permit (other than the TPDES permit for discharges from the MS4);
 - (2) A discharge or flow resulting from emergency firefighting activities (not including washing of truck, runoff water from training activities, test water from fire suppression systems, and similar activities) by the fire department;
 - (3) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the fire code in this Code of Ordinances requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
 - (4) Agricultural stormwater runoff;
 - (5) A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless the total residual chlorine (TRC) has been reduced to less than 0.5 mg/l and it contains no harmful quantity of chlorine or any other chemical used in line disinfection;
 - (6) A discharge or flow from lawn watering, or landscape irrigation, or other irrigation water;
 - (7) A discharge or flow from a diverted stream flow or natural spring;
 - (8) A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
 - (9) Uncontaminated groundwater infiltration (as defined as 40 CFR section 35.2005(20)) to the MS4;

- (10) Uncontaminated discharge or flow from a foundation drain, crawl space pump, footing drain or sump pump;
 - (11) A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
 - (12) A discharge or flow from air-conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
 - (13) A discharge or flow from individual residential car washing;
 - (14) A discharge or flow from a riparian habitat or wetland;
 - (15) A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
 - (16) 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;
 - (17) Swimming pool water that has been dechlorinated so that total residual chlorine (TRC) is less than 0.5 mg/l and that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning; and
 - (18) A discharge from detention ponds that has been filtered to remove any suspended solids from the water, including a hose with a filter securely fastened and regularly replaced.
- (e) No affirmative defense shall be available under subsection (b) of this section if the discharge or flow in question has been determined by the city engineer to be a source of a pollutant or pollutants to 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 engineer's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

§ 13.14.003 Specific prohibitions of illicit connections and discharges.

- (a) The specific prohibitions and requirements in this section are not necessarily inclusive of all discharges prohibited by the general prohibition in section 13.14.002.
- (b) Any person found in violation of this Ordinance risks having their discharge authorization to the MS4 terminated and may be subject to a fine in accordance with the general penalty provision in section 1.01.009 of this code. The City will notify a violator of the proposed

termination and fine amount. A petition to reconsider termination may be filed.

- (c) No person shall introduce or cause to be introduced into the waters of the United State or MS4 any discharge that causes or contributes to causing the city to violate a water quality standard in the City's TPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (d) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:
 - (1) Any used motor oil, antifreeze, or any other motor vehicle fluid;
 - (2) Any industrial waste;
 - (3) Any hazardous waste, including hazardous household waste, including but not limited to paint, batteries or battery acid, cooking oil, fertilizers, and pool chemicals;
 - (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 - (5) Any garbage, rubbish, or yard waste, including discharges from dumpsters;
 - (6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than 4 such vehicles;
 - (7) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft or equipment;
 - (8) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
 - (9) Any wastewater from floor, rug, or carpet cleaning;
 - (10) Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
 - (11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber,

emissions filter, or the blowdown from a boiler;

- (12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or material from the cleaning of vehicles or equipment containing, or used in transporting or applying, such material, including concrete washout and similar construction waste;
- (13) Any runoff or washdown water from any animal pen, kennel, or fowl or livestock containment area containing more than 6 animals;
- (14) Any filter backwash from a swimming pool, or fountain, or spa;
- (15) Any swimming pool water containing total residual chlorine (TRC) of 0.5 mg/l or more or containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
- (16) Any discharge from water line disinfection by superchlorination or other means if the total residual chlorine (TRC) is at 0.5 mg/l or more or if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;
- (17) Any fire protection water containing oil or hazardous substances or materials that the fire code in this Code of Ordinances requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from firefighting by the fire department);
- (18) Any water from a water curtain in a spray room used for painting vehicles or equipment;
- (19) Any contaminated runoff from a vehicle salvage yard;
- (20) Any substance or material that will damage, block, or clog the MS4; or
- (21) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all the following criteria:
 - (A) Compliance with all state and federal standards and requirements;
 - (B) No discharge containing a harmful quantity of any pollutant; and
 - (C) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).

- (e) No person shall introduce or cause to be introduced into waters of the United States or the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.
- (f) No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.
- (g) No person shall cause or allow any pavement washwater from a service station to be discharged into the MS4 unless such washwater has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- (h) Used oil regulation. No person shall:
 - (1) Discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or watercourse;
 - (2) Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill; or
 - (3) Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.
- (i) No person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, with the city shall permit or allow any stagnant or unwholesome water, filth, carrion, rubbish, refuse, junk or garbage or impure or unwholesome matter of any kind, or objectionable, unsightly matter of whatever nature, to accumulate or remain on such real property or within any easement area of such real property or upon any adjacent right-of-way streets and alleys between the property line of such real property and where the paved surface of the street or alley begins. Storage of toxic or hazardous waste substances on property so as to allow exposure to precipitation and stormwater runoff etc., is prohibited and may be subject to a fine in accordance with the general penalty provision in section 1.01.009 of this code.

§ 13.14.004 Response to Illicit Discharges.

- (a) The City has the authority to respond to and contain illicit discharges. The City 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.

(b) 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. If hazardous materials are released, the person must immediately notify emergency response agencies and the City. 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.

(c) Responsibilities

(1) 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 to allow appropriate response measures to be taken. 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.

(2) 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) Observed environmental impacts resulting from the release, including water quality parameter changes, fish kills, and necessary responses taken to protect drinking water; and
 - (E) Measures that have been or will be taken by the responsible party to prevent a reoccurrence.
- (3) 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 Ordinance or to state or federal law.
- (4) 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.

§ 13.14.005 Permits and Applications.

- (a) The city engineer has the authority to enforce compliance with this Ordinance, permits, contracts, or orders in accordance with TPDES General Permit No. TXR150000 and TXR040000. Unless specifically excluded by this Ordinance, the person or entity seeking a permit for land disturbance activity shall submit to the city engineer a permit application on a form provided for that purpose. The permit application must be accompanied by all application requirements, the construction SWPPP and documents developed in accordance with TPDES General Permit No. TXR150000, a structural control maintenance agreement for permanent structures, and a non-refundable permit review fee.
- (b) Applicant responsibility. It shall be the sole responsibility of the person applying to prepare, submit, and implement a SWPPP, which meets the requirements of this Ordinance and the TPDES General Permit No. TXR150000.
- (c) SWPPP review fees. The SWPPP review fee shall be based on the amount of land to be disturbed and the fee structure established by the city engineer in accordance with established City fee schedule.
- (d) Application procedures.
 - (1) Applications for land disturbance activity permits shall be filed with the city engineer in accordance with the established submittal schedule and procedures.

- (2) A copy of this permit application shall be sent to developmentsservices@cityofkrum.com for review.
- (3) Permit applications shall include the following: two (2) copies of the SWPPP, two (2) copies of the structural control maintenance agreement for permanent structures, and non-refundable permit review fee.
 - (A) All persons operating construction sites that will disturb over one (1) acre and less than five (5) acres of soil shall also submit a copy of the signed and certified small construction site notice (CSN) with their application prior to the commencement of construction activities.
 - (B) All persons operating construction sites that will disturb five (5) or more acres of soil shall also submit a signed copy of the notice of intent (NOI) to the TCEQ prior to commencing construction activities. A copy of any NOI and the large CSN that is required shall be submitted to the city engineer in conjunction with any application for development and any other city engineer approval necessary to commence or continue construction at the site.
- (4) Within thirty (30) business days of receipt of a complete permit application, the city engineer shall inform the applicant whether the application is approved or disapproved.
- (5) If the permit application and required documents are approved by the city engineer, all appropriate land disturbance activity permits may be issued.

Failure of the city engineer to act on an original or revised SWPPP within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the SWPPP as filed unless such time is extended by an agreement between the person and the city engineer. Pending preparation and approval of a revised SWPPP, development activities shall be allowed to proceed in accordance with conditions established by the city engineer.

- (e) Effect of plan approval. It is to be understood that the approval of a SWPPP by the city engineer does not constitute a recognition that the SWPPP will prevent any or all illicit discharges to the MS4. By approval of the SWPPP, the city engineer does not warrant that the SWPPP will be sufficient to prevent an illicit discharge from a construction site, and the City waives no rights to pursue any legal remedies, both under this Ordinance, and all other applicable Ordinances and laws. If for any reason, after a SWPPP is approved by the city engineer, an illicit discharge occurs on property addressed by the SWPPP, the approval of the SWPPP shall not be a defense or bar to prosecution under this Ordinance.
- (f) Construction stormwater runoff authorization changes or termination.
 - (1) For stormwater discharges from construction sites where the person operating the

construction site changes, the new operator shall submit a CSN to the city at least two (2) days prior to commencing work at the site. The person shall provide the city engineer with a copy of the notice of change (NOC) submitted to TCEQ in accordance with TPDES General Permit No. TXR150000.

- (2) Where a site has achieved final stabilization and all stormwater discharges from construction activities that are authorized by this Ordinance and by the TPDES General Permit No. TXR15000 for those construction activities are eliminated, or where the person operating the construction site changes, the person operating the construction site shall submit to the city engineer a completed CSN in accordance with the TPDES General Permit No. TXR150000. The completed CSN shall be submitted to the MS4 operator along with the Notice of Termination (NOT) for the stormwater permit associated with the site.
- (3) The city engineer shall complete a final inspection of the construction site and verify final stabilization has been achieved, all temporary BMPs have been removed, and all structural controls for stormwater conveyance have been restored to their original design specification, as necessary.

§ 13.14.006 Construction Site Stormwater Runoff Control Measures

- (a) Applicability. This subsection shall apply to all construction activities that disturb soil within the City and discharge stormwater into waters of the United States or the City MS4. All persons that operate construction sites must implement erosion and/or sedimentation control measures, along with BMPs, for new development and redevelopment that disturb soil during construction activities.
- (b) Requirements for all construction sites. All persons operating construction sites shall implement BMPs and control measures to prevent the discharge, to waters of the United States or the City MS4, of sediment, silt, earth, soil, and other material associated with the demolition, clearing, grading, excavation, and other construction activities to the maximum extent practicable under the circumstances. The City hereby adopts the Integrated Stormwater Management (iSWM) – Technical Manual for Construction Controls and subsequent updates developed specifically for the North Central Texas Region by the North Central Texas Council of Governments (NCTCOG, 2020). The persons operating the construction site shall implement and maintain iSWM Technical Manual – Construction Controls or a City-approved equivalent, at their own expense, appropriate to prevent and reduce the discharge of pollutants into waters of the United States or the City MS4. The BMPs must be identified in the erosion and sedimentation control plan or SWPPP. The following design requirements must be considered when planning, implementing, and maintaining BMPs:
 - (1) Limit the size of disturbed areas to the greatest extent possible, which may include disturbing portions at a time over the course of a project;
 - (2) Stabilize any disturbed area as soon as possible. Stabilization of disturbed areas

must, at a minimum, be initiated immediately whenever any clearing, grading, excavation, or other earth-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site. Stabilization methods may include temporary seeding, permanent seeding, mulching, geotextiles, sod installation, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures; and

- (3) Once final stabilization is confirmed, erosion and sediment control measures including silt fences must be removed from the site to prevent the creation of litter and safety hazards.
- (4) For construction activities in waterways, the following additional requirements must be met:
 - (A) At the end of each working day, the contractor shall remove all loose excavated material from the channel;
 - (B) No construction or fill materials can be stored within the limits of the channel. All equipment and materials storage and staging areas must have erosion controls;
 - (C) Rock berms or sandbag berms shall be used to entrap sediment; and
 - (D) Flooding potential should be considered when locating the control measures.
- (5) Require controls to intercept silt from all disturbed areas;
- (6) Keep the velocities of stormwater runoff below the erosive level, utilizing features such as check dams to reduce flow velocity;
- (7) Protect street areas and areas disturbed by development activity from upstream runoff;
- (8) Capture and filter/drain stormwater runoff;
- (9) Minimize the extent of sediment leaving the project site;
- (10) Implement 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;
- (11) Reduce flooding hazards and silt removal cost associated with excessive sediment accumulation in storm drains and waterways;
- (12) Reduce the concentration of stormwater runoff and promote street flow to the greatest extent possible, including maintaining inlet protections to prevent flooding;
- (13) Revegetate all disturbed areas with a rapid, vigorous growth of long-term vegetation

composed of a mixture of grasses and woody plants;

- (14) Provide a sedimentation and/or filtration pond/trap to maintain and improve water quality;
- (15) Erosion control plans should be phased to accommodate for changes in drainage patterns that occur during development;
- (16) Reduce the silt leaving a construction site on the wheels of construction vehicles by providing vehicle washing areas and/or established construction entrances and exits;
- (17) Preserve and protect existing vegetation to the greatest extent possible;
- (18) Planning should consider the natural topography and soil condition to limit the erosion potential;
- (19) Design erosion and sedimentation controls should consider the natural character of the land, including weather and soils;
- (20) When storm drain inlets must be protected, a perimeter filtration dike shall be used (triangular filtration dike or hay bale dike); and
- (21) Provide a containment plan for construction-related trash, such as a covered dumpster, that is regularly inspected to ensure no leaks have occurred.

The considerations listed above are illustrative only and are not to be considered an exhaustive list of criteria an effective erosion and sedimentation plan should address. The city engineer reserves the right to require that any person disturbing soil during construction install and maintain erosion and/or sedimentation control measures and BMPs, at their own expense, if the city engineer determines it necessary to protect the MS4 or waters of the United States.

- (c) Non-stormwater discharges from construction sites. No person shall discharge or cause to be discharged into waters of the United States or the City MS4 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 and wastewater from water well drilling operations, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, from release oils, 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.
- (d) Stormwater Pollution Protection Plans. The city engineer shall have the right to enforce compliance with this Ordinance, permits, contracts, standard operating procedures, or orders in accordance with the TPDES General Permit No. TXR150000 and TXR040000. No person(s) 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 (1) acre or less than one (1) acre as part of a larger common plan of development of land without the approval of a site-specific SWPPP developed and implemented in accordance with Part III of TPDES General Permit No. TXR150000. The SWPPP shall be updated and modified as appropriate and as required by the TPDES General Permit No. TXR150000. Exclusions from this requirement may consist of a waiver of such requirement from TCEQ.

The SWPPP 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 BMPs proposed to minimize soil erosion and off-site sedimentation. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The person(s) shall retain copies of any SWPPP and all reports required by this Ordinance and/or by the TPDES General Permit No. TXR150000 for the site, including all internal inspection reports, and records of all data used to complete the CSN, NOI, NOC, and NOT for a period of at least three (3) years from the date that the site is finally stabilized.

§ 13.14.007 Post-Construction Stormwater Management for New Development and Redevelopment

- (a) Applicability. This subsection shall apply to all completed new development and/or redevelopment projects that disturbed one (1) acre or more of land, including projects less than one (1) 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 structural controls 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 and the General Permit No. TXR040000.

All persons that own new development and/or redevelopment projects that disturb one (1) acre or more of land, including projects less than one (1) acre that are part of a larger common plan of development or sale, and discharge stormwater into waters of the United States and/or the City MS4, shall conduct a downstream assessment to determine the appropriate design criteria to protect streambanks and mitigate flooding and implement stormwater control practices to minimize impacts to water quality.

- (b) Control measures. The city engineer shall have the authority to require structural control measure installation, implementation, inspection, and maintenance meeting or exceeding the requirements of the TPDES General Permit No. TXR040000.
- (c) Maintenance easement. Prior to the city engineer issuance of any permit for land development requiring structural controls, all person(s) shall implement a maintenance easement agreement that binds all subsequent owners of land served by the structural control. The agreement allows the city engineer access to the structural control to periodically inspect if the structural control is maintained and in proper working order condition and meets design standards and other provisions established by this Ordinance. The easement agreement shall be recorded by the City in the land records.
- (d) Maintenance agreement. All person(s) that own or operate structural controls shall be required to enter into a maintenance agreement with the City. The maintenance agreement shall include: a schedule of routine maintenance activities, inspection frequency, and plans for annual inspections to assess the proper functioning of the structural controls. The maintenance agreement shall be approved by the City and recorded into the land record prior to final plan approval.
- (e) Interagency or interlocal agreements. The City shall have the authority to enter into interagency or interlocal agreements or other maintenance agreements, as necessary in accordance with TPDES General Permit No. TXR040000. This agreement shall include maintenance easements to access and inspect structural controls and perform inspections, as needed, to ensure proper structural control maintenance.
- (f) Detention basin and/or retention pond inspections and reporting. All detention basins and/or retention ponds must undergo inspections to document maintenance and repair needs and to verify compliance with the requirements of this Ordinance throughout the life of the detention basin and/or retention pond. The City shall have the authority to perform inspections on detention basins and/or retention ponds with a history of noncompliance.
 - (1) The detention basin and/or retention pond inspection report must include requirements provided by the City including, but not limited to, the following:

- (A) A condition assessment, performed by a RPE, of the detention basin and/or retention pond as of the date of the report;
 - (B) Detention basin and/or retention pond maintenance performed by the person(s) owning or operating it during the preceding calendar year;
 - (C) The RPE's determination identifying any functionality concerns, structural deficiencies, and the reduction in design capacity in accordance with original design specifications for the detention basin and/or retention pond;
 - (D) RPE recommendations regarding maintenance and/or modification of the detention basin and/or retention pond to meet original design specifications; and
 - (E) RPE seal on completed inspection report.
- (2) Detention basin and/or retention pond inspections shall be performed using the pre-formatted inspection report provided by the City.
- (3) The detention basin and/or retention pond inspection report shall be submitted to the City Public Works Department for review no later than December 31st of the inspection year. Failing inspection reports shall be submitted within five (5) days of the inspection.
- (A) Maintenance and repair needs or other deficiencies identified in the inspection report must be adequately addressed to ensure compliance with the requirements of this Ordinance. Upon completion of all necessary maintenance, repairs or deficiencies identified in the inspection report, the detention basin and/or retention pond shall be re-inspected at the expense of the owner(s). Following the re-inspection, the owner(s) of the detention basin and/or retention pond shall submit a supplemental certified inspection report to the City confirming that all corrective measures have been completed.
- (g) Detention basin and/or retention pond inspection schedule. All persons owning or operating detention basins and/or retention ponds that discharge or connect to waters of the United States or the City MS4 within the City limits must conduct, at a minimum, an inspection at each detention basin and/or retention pond every three (3) years following a passing inspection beginning upon the adoption of this Ordinance.
- (h) Maintenance and repair of structural controls. All persons owning or operating new developments and/or redevelopments shall perpetually maintain the structural controls within the drainage, floodplain, and maintenance easements associated with the property's plat. The following maintenance agreement for structural controls shall be recorded by the City in the land records or deeds, as follows:
- (1) All owners shall maintain in good structural condition and repair all drainage pipes, including reinforced concrete pipe (RCP) and other drainage piping material. All owners shall repair any defects in the storm drainage piping system including leaking

pipe joints, deflection of flexible pipe diameter in excess of 5%, pipe structural failure, or other defects that might impair the hydraulic capacity or structural soundness of the drainage system. All owners shall repair any drainage pipe defects within thirty (30) days after recognition of the problem via inspection by the owner, and/or the city engineer.

- (2) All owners shall maintain, repair and remove obstructions in the storm drainage inlet and outlet structures including, but not limited to, grate inlets, curb inlets, catch basins, Y- inlets, and headwalls. All owners shall repair any defects in the storm drainage inlet or outlet structures and remove obstructions that might impair the hydraulic capacity or structural soundness of the drainage system. All owners shall repair any drainage inlet or outlet structural defects and remove obstructions within thirty (30) days after recognition of the problem via inspection by the owners, and/or the city engineer.
- (3) All owners shall maintain and repair concrete channel lining, pilot channels, rock riprap, gabions, or any other channel lining material and to repair any defects in the channel lining material including undermining, excessive cracking and settlement, structural failure, or other defects that might impair the hydraulic capacity or structural soundness of the drainage system. Rock riprap washed downstream will be replaced as needed to maintain the rock layer thickness as designed. All owners shall repair any defects in the channel lining within thirty (30) days after recognition of the problem via inspection by the owner, and/or the city engineer.
- (4) All owners shall maintain and repair channels, ditches, and detention or retention facilities, and repair erosion in same by backfilling the eroded area and re-establishing protective vegetation or by armoring the eroded area with gabions, rock riprap, concrete or other material approved by the city engineer. All owners shall repair any eroded areas in the channels, ditches, and detention or retention ponds within thirty (30) days after recognition of the problem via inspection by the owners, and/or the city engineer.
- (5) Channels, ditches, and detention or retention facilities shall be inspected at a minimum every ninety (90) days by all responsible owners to determine vegetation removal maintenance, debris, and trash accumulation. Debris and trash shall be removed as needed to prevent the discharge into waters of the United States or the City MS4. Removal of willows, cottonwoods or other "woody" vegetation from channels, ditches, detention ponds and retention facilities shall be done at least once a year. Ditches, earthen channels and detention or retention facilities shall be mowed as frequently as required to prevent grassy vegetation from exceeding a height of more than one (1) foot.
- (6) Channels, ditches, culverts, inlet and outlet structures and drainage piping shall be inspected every three years by all responsible owners for debris, trash, and sediment accumulation. The accumulated debris, trash, or sediment shall be removed as needed to ensure the designed hydraulic capacity of the drainage system, with accumulations in culverts and detention basins and/or retention ponds not to exceed

a height that decreases the hydraulic capacity by more than 25% of the original design specification. Removal of accumulated sediment and/or debris is required if the hydraulic capacity of the culvert and detention basins and/or retention ponds is decreased by 25% or more. Trash, debris, or sediment shall not be allowed to accumulate and shall be removed within thirty (30) days after recognition of the problem via inspection by the owners, and/or the city engineer.

- (7) All owners shall inspect all structural controls every 90 days to identify any obstructions or structural problems, complete a written inspection report, and take the actions necessary to remove obstructions and repair structural problems within thirty (30) days. Inspection reports must be available within 24 hours of request by the City.
- (8) All owners shall maintain access to the drainage system within the drainage, floodway and maintenance easements for maintenance and inspection.
- (9) All references in this maintenance agreement to repairs to be made "within thirty (30) days" shall mean that all persons shall commence repairs within thirty (30) days after recognition of the problem via inspection by the owner, and/or the city engineer. All persons shall diligently work to complete such repairs.

If the structural control becomes a danger to public safety or health or is deemed a nuisance, the city engineer shall notify all persons responsible for maintenance of the structural control in writing. Upon receipt of that notice, all responsible persons shall have thirty (30) days to meet maintenance and repair requirements. If all persons fail to comply with the requirements of this Ordinance, the city engineer, after reasonable notice, may perform all necessary work to bring the structural control into compliance at the expense of all responsible persons.

§ 13.14.008 Compliance monitoring.

- (a) Right of entry; inspection and sampling. The city engineer shall have the right to enter the premises of any person discharging stormwater to the MS4 or to waters of the United States to determine if the discharger is complying with all requirements of this article, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the city engineer ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Dischargers shall make available to the city engineer, upon request, any SWPPPs, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, Notices of intent, and any other records, reports, and other documents related to compliance with this article and with any state or federal discharge permit.
 - (1) Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city engineer will be permitted to enter without delay for the purposes of performing his/her responsibilities.

- (2) The city engineer shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/ or metering of the discharger's operations.
 - (3) The city engineer may require any discharger to the MS4 or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges, and may specify the frequency and parameters of any such required monitoring.
 - (4) The city engineer may require the discharger to install monitoring equipment as necessary at the discharger's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure 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 discharger at the written or verbal request of the city engineer and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
 - (6) Unreasonable delays in allowing the city engineer access to the discharger's premises shall be a violation of this article and may be subject to a fine in accordance with the general penalty provision in section 1.01.009 of this code.
- (b) Search warrants. If the city engineer 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 article or any state or federal discharge permit, limitation, or requirement, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city engineer may seek issuance of a search warrant from any court of competent jurisdiction.
- (c) BMPs to reduce stormwater pollutants. The City has the authority to respond to non-compliance with BMPs required by the small MS4 in accordance with the TPDES Phase II MS4 Permit TXR040000. The City shall adopt measures to identify BMPs for any activity, operation, or facility which may facilitate pollution of stormwater, the MS4, or waters of the United States. The owner or operator of a commercial, industrial, or construction establishment shall implement, at their own expense, appropriate pollution control measures using structural and non-structural BMPs to prevent and reduce discharge of pollutants to the MS4 or waters of the United States. The BMPs must be identified in the SWPPP to satisfy the requirements of the TPDES permit.

§ 13.14.009 Administrative enforcement remedies.

- (a) Warning notice. When the city engineer finds that any person has violated, or continues to

violate, any provision of this article, or any order issued hereunder, the city engineer may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the city engineer to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

- (b) Notification of violation. When the city engineer finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the city engineer may serve upon that person a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the city engineer. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the city engineer within ten (10) days of receipt of the notice. Submission of an explanation and/or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city engineer to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.
- (c) Consent orders. The city engineer may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (e)–(g) of this section and shall be judicially enforceable.
- (d) Show cause hearing. The city engineer may order any person who has violated, or continues to violate, any provision of this article, or any order issued hereunder, to appear before the city engineer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in section 13.14.006(a)(7) of this article. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the alleged violator.
- (e) Compliance orders. When the city engineer finds that any person has violated, or continues

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

(f) Remediation, abatement, and restoration orders. When the city engineer finds that a person has violated, or continues to violate, any provision of this article, or any order issued hereunder, and that such violation has adversely affected the MS4, waters of the United States or any other aspect of the environment, the city engineer may issue an order to the violator directing him/her to undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4, waters of the United States, or any other aspect of the environment, and/or to restore any part of the MS4, waters of the United States, or any other aspect of the environment that has been harmed. Such remedial, abatement, and restoration action may include, but not be limited to: monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action; confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination; prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation; restoration or replacement of city property or natural resources damaged by the violation. The order may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this subsection does not relieve the violator of liability for any violation, including any continuing violation. Issuance of an order under this subsection shall not be a bar against, or a prerequisite for, taking any other action against any responsible party.

(g) Emergency cease and desist orders.

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

(A) Immediately comply with all ordinance requirements; and

(B) 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.

- (2) Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city engineer may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The city engineer may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the city engineer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the city engineer within ten (10) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for taking any other action against the violator.

- (h) Red tags. Whenever the city engineer finds that any operator of a construction site has violated, or continues to violate, any provision of this section, or any order issued thereunder, the city engineer may order that a red tag be issued to the operator, posted at the construction site, and distributed to all city departments and divisions whose decisions affect any activity at the site. Unless express written exception is made by the city engineer, the red tag shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the city associated with a building permit, grading permit, subdivision plat approval, site development plan approval, or any other city approval necessary to commence or continue construction or to assume occupancy at the site. Issuance of a red tag order shall not be a bar against, or a prerequisite for, taking any other action against the violator. The city may withhold a temporary or final certificate of occupancy, certificate of acceptance, or fiscal security until City of Krum final inspection approval. Such notice may require:

- (1) Monitoring, analysis, and reporting;
- (2) Elimination of illicit connections or discharges;
- (3) Termination of existing discharges or practices and/or operations in violation of this code;
- (4) Abatement and/or remediation of stormwater pollution or contamination hazards;
- (5) Payment of fines to cover administrative and remediation costs; and
- (6) Implementation of pollution control measures or treatment BMPs.

If the property must be remediated, the notice must establish a deadline to restore the site. The notice must further advise that, if the violator fails to remediate the site by the deadline, a designated governmental agency or contractor will restore the site at the expense of the violator.

§ 13.14.010 Right to reconsideration, hearing, and appeal.

(a) Reconsideration and hearing.

- (1) Any person subject to a compliance order under section 13.14.005(e), a remediation, abatement, or restoration order under section 13.14.005(f), an emergency cease and desist order under section 13.14.005(g), or a red tag order under section 13.14.005(h) of this article may petition the city engineer to reconsider the basis for his/her order within seven (7) days of the affected person's notice of issuance of such an order.
- (2) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order.
- (3) In its petition, the petitioning party must indicate the provisions of the order objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that the petitioner would accept, and whether the petitioning party requests a hearing on its petition.
- (4) The effect of any compliance order under section 13.14.005(e), a remediation, abatement, or restoration order under section 13.14.005(f), and any red tag order under section 13.14.005(h) shall be stayed pending the city engineer's reconsideration of the petition, and any hearing thereon, unless the city engineer expressly makes a written determination to the contrary. The effectiveness of any emergency cease and desist order under section 13.14.005(g) shall not be stayed pending the city engineer's reconsideration, or any hearing thereon, unless the city engineer expressly and in writing stays his/her emergency order.
- (5) Within ten (10) days of the submittal of a petition for reconsideration, the city engineer shall either:
 - (A) Grant the petition and withdraw or modify the order accordingly;
 - (B) Deny the petition, without hearing, if no material issue of fact is raised; or
 - (C) If a hearing has been requested and a material issue of fact has been raised, set a hearing on the petition.
- (6) Written notice of any hearing set by the city engineer pursuant to subsection (a)(5) above shall be served on the petitioning party personally or by registered or certified

mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.

- (7) The city engineer may himself/herself conduct the hearing and take evidence, or he/she may designate any employee of the city or any specially-designated attorney or engineer to:
 - (A) Issue, in the name of the city, notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
 - (B) Take evidence;
 - (C) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city engineer for action thereon. At any hearing held pursuant to this subsection, testimony taken shall be under oath and recorded. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

(b) Appeal.

- (1) After the city engineer has reviewed the evidence, he/she shall either: (A) grant the petition; (B) deny the petition; or (C) grant the petition in part and deny it in part. The city engineer may modify his/her order as is appropriate based upon the evidence and arguments presented at the hearing and his/her action on the petition. Further orders and directives as are necessary and appropriate may be issued.
- (2) Any person whose petition for reconsideration by the city engineer has not been granted in its entirety and who remains adversely affected by the city engineer's order, or who is subject to an order of the city engineer issued following a show cause hearing under section 13.14.005(d), may appeal the action of the city engineer to the city council by filing a written appeal with the city council within fourteen (14) days of the person's notice of the city engineer's adverse action on the petition for reconsideration, or within fourteen (14) days of the person's notice of the issuance of the order following the show cause hearing, as the case may be.
- (3) Failure to submit a timely written appeal to the city council shall be deemed to be a waiver of further administrative review.
- (4) In its written appeal to the city council, the appealing party shall indicate the particular provisions of the order objected to, the particular determinations of the city engineer that are contested, the reasons that the city engineer's order and/or determinations are contested, and any alternative order that the appealing party would accept.

- (5) The effect of the city engineer's order, as issued or modified, shall not be stayed pending the appeal to the city council, unless the city council expressly so states.
- (6) Within twenty-one (21) days of the submittal of a written appeal to the city council, the city council shall hear and consider the appeal in open meeting. The appellant shall be notified at least seven (7) days in advance of the date and time of the city council meeting at which the appeal will be heard and considered.
- (7) The appellant shall have the right to public appearance before the city council to present oral and written statements in support of his/her appeal. If the city council wishes to consider testimony of witnesses or other evidence beyond that in the record of any hearing before the city engineer, the city council may remand the matter to the city engineer for the taking of additional testimony or other evidence.
- (8) Upon consideration of any written and oral statements made to the city council, as well as the record made before the city engineer, the city council shall act on the appeal by affirming, vacating, or modifying the order of the city engineer, and/or by remanding the matter to the city engineer for further action.
- (9) Following final action by the city council on the appeal, any adversely affected party may challenge such action by the city council in an appropriate court of competent jurisdiction.

§ 13.14.011 Judicial enforcement remedies.

(a) Civil remedies.

- (1) Whenever it appears that a person has violated, or continues to violate, any provision of this article that relates to:
 - (A) The preservation of public safety, relating to the materials or methods used in construction of any structure or improvement of real property;
 - (B) The preservation of public health or to the fire safety of a building or other structure or improvement;
 - (C) The establishment of criteria for land subdivision or construction of buildings, including street design;
 - (D) Dangerously damaged or deteriorated structures or improvements, including stormwater infrastructure;
 - (E) Conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
 - (F) Point source effluent limitations or the discharge of a pollutant, other than from a

non-point source, into the MS4.

The city may invoke sections 54.011–54.017 of the Texas Local Government Code and petition the state district court or the county court at law of Denton County, through the city attorney, for either the injunctive relief specified in subsection (2) below or the civil penalties specified in subsection (3) below, or both the specified injunctive relief and civil penalties.

- (2) Pursuant to section 54.016 of the Texas Local Government Code, the city may obtain against the owner or the operator of a facility a temporary or permanent injunction, as appropriate, that:
 - (A) Prohibits any conduct that violates any provision of this article that relates to any matter specified in subsections (1)(A)–(F) above; or
 - (B) Compels the specific performance of any action that is necessary for compliance with any provision of this article that relates to any matter specified in subsections (1)(A)–(F) above.
- (3) Pursuant to section 54.017 of the Texas Local Government Code, the city may recover a civil penalty of not more than \$1,000.00 per day for each violation of any provision of this article that relates to any matter specified in subsections (1)(A)–(E) above, and a civil penalty of not more than \$5,000.00 per day for each violation of any provision of this article that relates to any matter specified in subsection (1)(F) above, if the city proves that:
 - (A) The defendant was actually notified of the provisions of this article; and
 - (B) After the defendant received notice of this article provisions, the defendant committed acts in violation of this article or failed to take action necessary for compliance with this article.

(b) Criminal penalties.

- (1) 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 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.
- (2) Any person who has knowingly made any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this 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.

- (3) In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence, or other state of mind of the violator, and any other factor as justice requires.
- (c) Civil suit. Whenever it appears that a violation or threat of violation of any provision of section 26.121 of the Texas Water Code, or any rule, permit, or order of the TCEQ has occurred or is occurring within the jurisdiction of the city, exclusive of its extraterritorial jurisdiction, the city, in the same manner as the TCEQ, may have a suit instituted in a state district court through its city attorney for the injunctive relief or civil penalties or both authorized in subsection (a) of section 26.123 of the Texas Water Code, against the person who committed or is committing or threatening to commit the violation. This power is exercised pursuant to section 26.124 of the Texas Water Code. In any suit brought by the city under this subsection, the TCEQ is a necessary and indispensable party.
- (d) Remedies nonexclusive. 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 violator. The city is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently.”

3.02 That the Krum Code of Ordinances, Appendix A, “Fee Schedule,” Article A11.000, “Utility Fees,” Subsection A11.017, “Stormwater Utility Fees” shall be added to read as follows:

“A11.017 Stormwater Utility Fees

- (a) Engineering Plan Review Fees for Stormwater Pollution Prevention Plan:
\$2,000.00/plan

Engineering Plan Review includes one (1) initial plan review and one (1) review to verify any needed changes. Any subsequent reviews will be charged as above.

- (b) Stormwater Infrastructure Inspections: \$250.00/inspection”

3.03 All other articles, chapters, sections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

**SECTION 4
CUMULATIVE REPEALER**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance

shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5
SAVINGS

All rights and remedies of the City of Krum, Texas are expressly saved as to any and all violations of the provisions of the City's Code of Ordinances or of any other ordinance affecting traffic and vehicles, which have been secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

SECTION 6
SEVERABILITY

The provisions of this Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decision or enactment.

SECTION 7
PENALTY

It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision of this Ordinance shall be fined, upon conviction, an amount not to exceed two thousand dollars (\$2,000.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs and continues.

If the governing body of the City of Krum determines that a violation of this Ordinance has occurred, the City of Krum may bring suit in district court to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity.

SECTION 8
PUBLICATION

The City Secretary of the City of Krum is directed to publish in the official newspaper of the City, the caption, and effective date of this Ordinance as required by law.

SECTION 9
ENGROSSMENT AND ENROLLMENT

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City of Krum, Texas.

SECTION 10
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage in accordance with law.

AND IT IS SO ORDAINED.

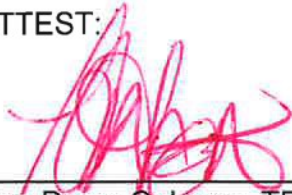
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KRUM, TEXAS, ON THIS THE 2ND DAY OF JANUARY, 2024.

APPROVED:



Rhonda Harrison
Mayor


ATTEST:



Lisa Dawn Cabrera, TRMC, CMC
City Secretary



APPROVED AS TO FORM:



Lance Vanzant
City Attorney