

**ORDINANCE NO. 495-15**

**AN ORDINANCE OF THE CITY OF SANSOM PARK, TEXAS, ESTABLISHING REGULATIONS FOR DISCHARGES INTO THE MUNICIPAL STORM SEWER SYSTEM; PROVIDING DEFINITIONS; PROVIDING FOR DISCHARGES TO MUNICIPAL STORM SEWER SYSTEM RESTRICTED; PROVIDING FOR SPECIFIC PROHIBITIONS AND REQUIREMENTS; PROVIDING FOR RELEASE REPORTING AND CLEANUP; PROVIDING FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES; PROVIDING FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY; PROVIDING FOR COMPLIANCE MONITORING; PROVIDING FOR CITIZEN PARTICIPATION; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT REMEDIES; PROVIDING FOR RIGHT TO RECONSIDERATION; PROVIDING FOR JUDICIAL ENFORCEMENT REMEDIES; PROVIDING FOR SUPPLEMENTAL ENFORCEMENT ACTIONS; PROVIDING FOR FEES AND CHARGES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The City of Sansom Park, Texas, is a Type A Municipality located in Tarrant County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, Section 51.001 of the Texas Local Government Code authorizes municipalities to adopt any ordinance, act, law, or regulation, not inconsistent with State law, that is necessary for the government, interest, welfare or good order of the City; and

**WHEREAS**, it will be necessary and essential to ensure that the collection and disposal of stormwater drainage within the city limits adequately protects the health, safety, and welfare of the citizens of Sansom Park including, but not limited to, the protection from loss of life and property caused by surface water overflows and surface water stagnation; and

**WHEREAS**, it is necessary and essential that the City address the various environmental issues that may further burden its infrastructure requirements; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANSOM PARK, TEXAS:**

**SECTION I  
PURPOSE**

The purposes and objectives of this article are as follows:

- 1) Maintain and improve the quality of surface water and groundwater within the City, the North Central Texas Region and the State.
- 2) Prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential and construction sites into the Municipal Separate Storm Sewer System (MS4) and natural waters within the City.
- 3) Promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers and other contaminants into the storm sewers and natural waters of the City.
- 4) Encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
- 5) Facilitate compliance with State and Federal standards and permits by owners and operators of industrial and construction sites within the City.
- 6) Enable the City to comply with all Federal and State laws and regulations applicable to stormwater discharges.

**SECTION II  
ADMINISTRATION**

Except as otherwise provided herein, the City Engineer, the Community Development Director or whoever designated shall administer, implement and enforce the provisions of this article. Any powers granted to or duties imposed upon the City Engineer may be delegated by the City Engineer to other City personnel.

**SECTION III  
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  
NOI – Notice of Intent  
NOT – Notice of Termination  
NPDES – National 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  
TPH – Total Petroleum Hydrocarbons  
USC – United States Code

**SECTION IV  
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 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).*** Schedule 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 Sansom Park, Texas, or the City Council of Sansom Park.

***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.

**Community Development Director.** The person appointed to the position of Community Development Director by the City Council, or his/her duly authorized representative.

**Discharge.** Any addition or introduction of any pollutant, stormwater or any other substance whatsoever into the Municipal Separate Storm Sewer System (MS4) or into waters of the United States.

**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 the 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 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 the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

**Fire Department.** The Fire Department, 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, camp grounds, 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 261.

**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.

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

**Motor Vehicle Fuel.** Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend and any other fluid used in a motor vehicle.

**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 State Commission on Environmental Quality).

**Municipal Separate Storm Sewer System (MS4).** The system of conveyances (including roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, man-made channels or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater and which is not used for collecting or conveying sewage.

**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.

**NPDES General Permit For Stormwater Discharges Associated With Industrial Activity (or Industrial General Permit).** The Industrial General Permit issued by the 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 the 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 the 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.

**Non-Point Source.** Any source of any discharge of a pollutant that is not a "point source."

**Notice of Intent (NOI).** The Notice of Intent that is required by either the Industrial General Permit or the Construction General Permit.

**Notice of Termination (NOT).** The Notice of Termination that is required by either the Industrial General Permit or the Construction General Permit.

**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 criteria:

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

**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 a combination of, above-ground or underground storage tanks that contain petroleum products and any connecting underground pipes.

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

**Pollutant.** Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water. The term "pollutant" does not include tailwater or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land 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.

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

**Registered Professional Engineer (RPE).** A person who has been duly licensed and registered by the State Board of 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 the 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 (1600 to 1800 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.

**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.** 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 in 40 CFR Section 122.26(b)(14), and which is not excluded from the 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.

**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 a synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with State and Federal law.

**Water In The State (or Water).** Any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the State or inside the jurisdiction of 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 30 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 ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

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

## SECTION V DISCHARGES TO MUNICIPAL STORM SEWER SYSTEM RESTRICTED

- a) Discharge Other Than Stormwater Prohibited. No person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System (MS4) any discharge that is not composed entirely of stormwater.
- b) Defenses. It is an affirmative defense to any enforcement action for violation of subsection (a) above that the discharge was composed entirely of one or more of the following categories of discharges:
- 1) A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
  - 2) A discharge or flow resulting from firefighting 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 the 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 contain 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, crawlspace 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; or
  - 17) Swimming pool water that has been dechlorinated so that total residual chlorine (TRC) 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.
  - 18) Foundation and footing drains
  - 19) Other allowable non-stormwater discharges listed in 40 CFR §122.26(d)(2)(iv)(B)(1)
  - 20) Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000
  - 21) Other similar occasional incidental non-stormwater discharges such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges.
- c) No affirmative defense shall be available under subsection (b) above if the discharge or flow in question has been determined by the Community Development Director to be a source of pollutant or pollutants to the waters of the United States or to the MS4, written notice of such determination has been provided to the discharger and the discharge has occurred more than 15 days beyond such notice. The correctness of the Community Development Directors' determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

**SECTION VI**  
**SPECIFIC PROHIBITIONS AND REQUIREMENTS**

- a) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in Section V.
- b) No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit or any State-issued discharge permit for discharges from its MS4.
- c) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose or otherwise introduce or cause, allow or permit to be introduced any of the following substances into the MS4:
  - 1) Any used motor oil, antifreeze or any other motor vehicle fluid;
  - 2) Any industrial waste;
  - 3) Any hazardous waste, including hazardous household waste;
  - 4) Any domestic sewage or septic tank waste, grease trap waste or grit trap waste;
  - 5) Any garbage, rubbish or yard waste;
  - 6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop or maintenance facility; or from any



washing, cleaning or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment, by a business or public entity that operates more than two such vehicles;

- 7) Any wastewater from the washing, cleaning, de-icing or other maintenance of aircraft;
  - 8) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent or any other harmful cleaning substance;
  - 9) Any wastewater from floor, rug or carpet cleaning;
  - 10) Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak or other release of oil, motor fuel or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
  - 11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter or the blowdown from a boiler;
  - 12) Any ready-mixed concrete, mortar, ceramic or asphalt base material or hydromulch material, or from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
  - 13) Any runoff or washdown water from any animal pen, kennel or fowl or livestock containment area;
  - 14) Any filter backwash from a swimming pool, fountain or spa;
  - 15) Any swimming pool water 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) 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 the 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 wrecking yard;
  - 20) Any substance or material that will damage, block or clog the MS4;
  - 21) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
    - a) Compliance with all State and Federal standards and requirements;
    - b) No discharge containing a harmful quantity of any pollutant; and
    - c) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).
- d) No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock or other earth materials, in excess of what could be retained on-site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.

- e) No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4 or allow such a connection to continue.
- f) No person shall cause or allow any pavement washwater from a service station to be discharged into the MS4 unless such washwater has passed through a properly functioning and maintained grease, oil and sand interceptor before discharge into the MS4.
- g) Regulation of Pesticides, Herbicides and Fertilizers
- 1) Any sale, distribution, application, labeling, manufacture, transportation, storage or disposal of a pesticide, herbicide or fertilizer must comply fully with all State and Federal statutes and regulations, including without limitation the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and all Federal regulations promulgated pursuant to FIFRA; Chapters 63, 75 and 76 of the Texas Agriculture Code and all State regulations promulgated pursuant thereto; and any other State or Federal requirement.
  - 2) Any license, permit, registration, certification or evidence of financial responsibility required by State or Federal law for sale, distribution, application, manufacture, transportation, storage or disposal of a pesticide, herbicide or fertilizer must be presented to the Community Development Director or his/her delegate and any City law enforcement officer for examination upon request.
  - 3) No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by State or Federal statute or regulation.
  - 4) No person shall use, or cause to be used, any pesticide, herbicide or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause or does cause a harmful quantity of the pesticide, herbicide or fertilizer to enter the MS4 or waters of the United States.
  - 5) No person shall dispose of, discard, store or transport a pesticide, herbicide or fertilizer, or a pesticide, herbicide or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause or does cause a harmful quantity of the pesticide, herbicide or fertilizer to enter the MS4 or waters of the United States.
  - 6) If provided with a display notice containing the provisions of this section pertaining to the regulation of pesticides, herbicides and fertilizers (or a reasonable description thereof), and the information that any user of the product may obtain further information from the Community Development Director, any person selling pesticides, herbicides or fertilizers at retail or wholesale shall post the notice prominently where it may be read by purchasers of the product.
- h) Used Oil Regulation. 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;
  - 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;
  - 4) All businesses that change motor oil for the public and municipal waste landfills are encouraged to serve as public used oil collection centers as provided by State statute in Section 371.024 of the Texas Health and Safety Code.
  - 5) A retail dealer who annually sells directly to the public oil in containers for use off-premises shall post in a prominent place a sign provided by the City or by the State informing the public that improper disposal of used oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the State Used Oil Information Center. If a sign is provided by the City, it shall also prominently display the City telephone number where information concerning the proper disposal of used oil may be obtained.

- i) Any prohibitions or requirements deemed necessary to carry out any “hazardous household waste” collection program that the City chooses to adopt (in compliance with the wishes of Region 6 expressed in its draft, draft permit), for example, requirements that household hazardous waste be segregated from other household waste, be discarded only at certain specified locations and/or be placed at curbside for collection only at specified times. Certain containers and security measures might also be required. Caution: Any hazardous household waste program must comply with subchapter L of Chapter 330 of Title 30 of the TAC.

**SECTION VII  
RELEASE REPORTING AND CLEANUP**

- a) The person in charge of any facility, vehicle or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing or any other release of any of the following quantities of any of the following substances that may flow, leach, enter or otherwise be introduced into the MS4 or waters of the United States shall immediately telephone and notify the Community Development Director concerning the incident:
- 1) An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
  - 2) An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
  - 3) An amount of oil that either:
    - a) Violates applicable water quality standards; or
    - b) Causes a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
  - 4) Any harmful quantity of any pollutant.
- b) The immediate notification required by subsection (a) shall include the following information:
- 1) The identity or chemical name of the substance released and whether the substance is an extremely hazardous substance;
  - 2) The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;
  - 3) The time and duration (thus far) of the release;
  - 4) An estimate of the quantity and concentration (if known) of the substance released;
  - 5) The source of the release;
  - 6) Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
  - 7) Any precautions that should be taken as a result of the release;
  - 8) Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and

- 9) The names and telephone numbers of the person or persons to be contacted for further information.
- c) Within fifteen (15) days following such release, the responsible person in charge of the facility, vehicle or other source of the release shall, unless waived by the Community Development Director, submit a written report containing each of the items of information specified above in subsection (b), as well as the following additional information:
  - 1) The ultimate duration, concentration and quantity of the release;
  - 2) All actions taken to respond to, contain and clean up the released substances, and all precautions taken to minimize the impacts;
  - 3) Any known or anticipated acute or chronic health risks associated with the release;
  - 4) Where appropriate, advice regarding medical attention necessary for exposed individuals;
  - 5) The identity of any governmental/private sector representatives responding to the release; and
  - 6) The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.
- d) The notifications required by subsections (b) and (c) shall not relieve the responsible person of any expense, loss, damage or other liability which may be incurred as a result of the release, including any liability for damage to the City, to natural resources or to any other person or property, nor shall such notification relieve the responsible person of any fine, penalty or other liability which may be imposed pursuant to this article or to State or Federal law.
- e) Any person responsible for any release as described in subsection (a) above shall comply with all State, Federal and any other local laws requiring reporting, cleanup, containment and any other appropriate remedial action in response to the release.
- f) Any person responsible for a release described in subsection (a) above shall reimburse the City for any cost incurred by the City in responding to the release.

**SECTION VIII**  
**STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES**

- a) General Requirements:
  1. All operators of construction sites shall use Best Management Practices to control and reduce the discharge, to the MS4 and to water of the United States, of sediment, silt, earth, soil and other material associated with the clearing, grading, excavation and other construction activities to the maximum extent practicable under the circumstances. Such Best Management Practices may include but not be limited to the following measures:
    - a) Ensuring that existing vegetation is preserved where feasible, and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation and other appropriate measures;
    - b) Use of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site to the extent feasible;
    - c) Minimization of the tracking of sediments off-site by vehicles, the generation of dust and the escape of other windblown waste from the site;

- d) Prevention of the discharge of building materials, including cement, lime, concrete and mortar, to the MS4 or waters of the United States;
  - e) Providing general good housekeeping measures to prevent and contain spills of paints, solvents, fuels, septic waste and other hazardous chemicals and pollutants associated with construction, and to assure proper cleanup and disposal of any such spills in compliance with State, Federal and Local requirements;
  - f) Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
  - g) Timely maintenance of vegetation, erosion and sediment control measures, and other Best Management Practices in good and effective operating condition; and
  - h) Installation of structural measures during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include but not be limited to the following: stormwater detention structures (including wet ponds), stormwater retention structures, flow attenuation by use of open vegetative swales and natural depressions, other velocity dissipation devices, infiltration of runoff on-site, and sequential systems which combine several practices. Operators of construction sites are only responsible for the installation and maintenance of stormwater management measures prior to final stabilization of the site and are not responsible for maintenance after stormwater discharges associated with construction activity have terminated.
2. Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of any construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater. All erosion and sediment control measures and other identified Best Management Practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, Best Management Practices shall be revised as appropriate, and as soon as is practicable.
  3. The Community Development Director may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the Best Management Practices required by subsection (a) (1) above that will be implemented at the construction site. The City may deny approval of any building permit, grading permit, subdivision plat, site development plan or any other City approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the Best Management Practices described in the plans are observed upon a site inspection by the Community Development Director are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation and other construction activities to the maximum extent practicable under the circumstances.
  4. Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in this subsection.
  5. Any contractor or subcontractor on a site of construction activity who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a Best Management Practices Control Measure, is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that Control Measure if such failure causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any State-issued discharge permit for discharges from its MS4.
- b) Five-Acre Disturbances:
- 1) All operators of sites of construction activity, including clearing, grading and excavation activities, that result in the disturbance of five or more acres of total land area, or that are part of a common plan of development or sale with five or

more acres of total land area are disturbed (or who are required to obtain an NPDES permit for stormwater discharges associated with construction activity), shall comply with the following requirements (in addition to those in subsection (a)):

- a) Any operator who intends to obtain coverage for stormwater discharges from a construction site under the NPDES general permit for stormwater discharges from construction sites (the Construction General Permit) shall submit a signed copy of its Notice of Intent (NOI) to the Community Development Director at least 2 days prior to the commencement of construction activities. If the construction activity is already underway upon the effective date of this article, the NOI shall be submitted within thirty (30) days. For stormwater discharges from construction sites where the operator changes, an NOI shall be submitted at least 2 days prior to when the operator commences work at this site.
  - b) A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Construction General Permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this article and any other City ordinance
- 2) On a site of more than one acre in total land area (or a site which is impacted by off-site drainage for more than one acre), the SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer. The signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Construction General Permit, or with any applicable individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this article. The SWPPP shall contain the name, title and business address of the Registered Professional Engineer signing it, and the date that he/she did so.
  - 3) The SWPPP shall be completed prior to the submittal of the NOI to the Community Development Director and for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit and this article. Any update or modification to the SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer, if the original SWPPP was required by subsection (2) above to have been prepared by a Registered Professional Engineer.
  - 4) A copy of any NOI that is required by subsection (1)(a) shall be submitted to the City in conjunction with any application for a building permit, grading permit, subdivision plat approval, site development plan approval, and any other City approval necessary to commence or continue construction at the site.
  - 5) The Community Development Director may require any operator who is required by subsection (1)(b) to prepare a SWPPP to submit the SWPPP, and any modifications thereto, to the Community Development Director for review. Such submittal and review of the SWPPP may be required by the Community Development Director prior to commencement of or during construction activities at the site.
  - 6) Upon the Community Development Directors' review of the SWPPP and any site inspection that he/she may conduct, the City may deny approval of any building permit, grading permit, subdivision plat, site development plan or any other City approval necessary to commence or continue construction or to assume occupancy on the grounds that the SWPPP does not comply with the requirements of the Construction General Permit, any individual or group NPDES permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this article. Also, if at any time the Community Development Director determines that the SWPPP is not being fully implemented, the City may similarly deny approval of any building permit, grading permit, subdivision plat, site development plan or any other City approval necessary to commence or continue construction or to assume occupancy at the site.
  - 7) Any significant modification to the SWPPP for a site of more than one acre of total land area (or a site which is impacted by off-site drainage from more than one acre) shall be prepared, signed and sealed by a Registered Professional Engineer as required for the original SWPPP by subsection (2).

- 8) All contractors and subcontractors identified in an SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP. "I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges associated with industrial activity from the construction site identified as part of this certification, (and that I am responsible for compliance) with the Stormwater Ordinance of the City of Sansom Park, and with those provisions of the Stormwater Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."
- 9) The certification must include the name and title of the person providing the signature, the name, address, and telephone number of the contracting firm, the address (or other identifying description) of the site and the date the certification is made.
- 10) The SWPPP, with the Registered Professional Engineer's signature and seal affixed, and the certifications of contractors and subcontractors required by subsection (8) above, and with any modifications attached, shall be retained at the construction site from the date of commencement of construction through the date of final stabilization.
- 11) The operator shall make the SWPPP and any modification thereto available to the Community Development Director upon request as well as to EPA and State inspectors.
- 12) The Community Development Director may notify the operator at any time that the SWPPP does not meet the requirements of the Construction General Permit, any applicable individual or group NPDES permit issued for stormwater discharges from the construction site, or any additional requirement imposed by or under this article. Such notification shall identify those provisions of the permit or ordinance which are not being met by the SWPPP and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) days of such notification from the Community Development Director (or as otherwise provided by the Community Development Director), the operator shall make the required changes to the SWPPP and shall submit to the Community Development Director a written certification that the requested changes have been made.
- 13) The operator shall amend the SWPPP whenever there is a change in design, construction, operation or maintenance which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity. In addition, the SWPPP shall be amended to identify any new contractor and/or subcontractor that will implement a measure in the SWPPP.
- 14) Qualified personnel provided by the operator of the construction site shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of the storm that is 0.5 inches or greater. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
- 15) Based on the results of the inspections required by subsection (14) above, the site description and/or the pollution prevention measures identified in the SWPPP shall be revised as appropriate, but in no case later than seven calendar days

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

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

## **SECTION IX**

### **STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY**

- a) All operators of: (i) municipal landfills, (ii) hazardous waste treatment, disposal and recovery facilities, (iii) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC Section 11023, and (iv) industrial facilities that the Community Development Director determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity shall comply with the following requirements:
  - 1) Any operator who intends to obtain coverage for stormwater discharge associated with industrial activity under the NPDES General Permit for stormwater discharges associated with industrial activity (the Industrial General Permit) shall submit a signed copy of its Notice of Intent (NOI) to the Community Development Director at least two (2) days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of this article the NOI shall be submitted within thirty (30) days. Where the operator of a facility with a stormwater discharge associated with industrial activity which is covered by the Industrial General Permit changes, the new operator of the facility shall submit a NOI at least two (2) days prior to the change.
  - 2) A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for stormwater discharges from the industrial facility, and with any additional requirement imposed by or under this article and any other City ordinance.
  - 3) The SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer. The signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements



of the Industrial General Permit, or with any applicable individual or group NPDES permit issued for stormwater discharges from the industrial facility, and with any additional requirement imposed by or under this article. The SWPPP shall contain the name, title and business address of the Registered Professional Engineer signing it and the date that he/she did so.

- 4) The SWPPP shall be completed prior to the submittal of the NOI to the Community Development Director and, for a new industrial operation, prior to the commencement of the industrial activity at the facility. The SWPPP shall be updated and modified as appropriate and as required by the Industrial General Permit and this article. Any update or modification to the SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer.
- 5) A copy of any NOI that is required by subsection (1) shall be submitted to the City in conjunction with any application for a permit or any other City approval necessary to commence or continue operation of the industrial facility.
- 6) The Community Development Director may require any operator who is required by subsection (2) to prepare a SWPPP to submit the SWPPP and any modifications thereto to the Community Development Director for review. Such submittal and review of the SWPPP may be required by the Community Development Director prior to commencement of or during industrial activity at the facility.
- 7) Upon the Community Development Directors' review of the SWPPP and any site inspection that he/she may conduct, the City may deny approval of any application for a permit or any other City approval necessary to commence or continue operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the Industrial General Permit, any individual or group NPDES permit issued for stormwater discharges from the industrial facility, or any additional requirement imposed by or under this article. Also, if at any time the Community Development Director determines that the SWPPP is not being fully implemented, the City may similarly deny approval of any application for a permit or other City approval necessary to commence or continue operation of the industrial facility.
- 8) Any significant modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer, as required for the original SWPPP by subsection (3).
- 9) The SWPPP, with the Registered Professional Engineer's signature and seal affixed, and with any modifications attached, shall be retained at the industrial facility from the date of commencement of operations until all stormwater discharges associated with industrial activity at the facility are eliminated and the required Notice of Termination (NOT) has been submitted.
- 10) The operator shall make the SWPPP and any modification thereto available to the Community Development Director upon request as well as to EPA and State inspectors.
- 11) The Community Development Director may notify the operator at any time that the SWPPP does not meet the requirements of the Industrial General Permit, any applicable individual or group NPDES permit issued for stormwater discharges from the industrial facility or any additional requirement imposed by or under this article. Such notification shall identify those provisions of the permit or ordinance which are not being met by the SWPPP and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within thirty (30) days of such notification from the Community Development Director (or as otherwise provided by the Community Development Director), the operator shall make the required changes to the SWPPP and shall submit to the Community Development Director a written certification that the requested changes have been made.
- 12) The operator shall amend the SWPPP whenever there is a change in design, construction, operation or maintenance which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges associated with industrial activity.
- 13) Qualified personnel (provided by the operator) shall inspect equipment and areas of the facility specified in the SWPPP at appropriate intervals. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspection shall be maintained.
- 14) Qualified personnel (provided by the operator) shall conduct comprehensive site compliance evaluations as required by part IV.D.4 of the Industrial General Permit at intervals of not less than once per year. Based on the results of the

compliance evaluation, the description of potential pollutant sources and the pollution prevention measures and controls identified in the SWPPP shall be revised as appropriate within two weeks of such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve weeks after the compliance evaluation.

- 15) A report summarizing the scope of the comprehensive site compliance evaluation required by subsection (14) above, personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one year after all stormwater discharges from the facility are eliminated and the required NOT has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the applicable NPDES permit, and this article. The report shall be signed by the individual responsible for the comprehensive site compliance evaluation and it shall be submitted to the Community Development Director within ten days of its completion.
- 16) If the industrial facility is required by part VI.B.2 of the Industrial General Permit to conduct semi-annual monitoring, a signed copy of each semi-annual monitoring report prepared in accordance with part VI.D shall be submitted to the Community Development Director.
- 17) If the industrial facility is required by part VI.B.3 of the Industrial General Permit to conduct annual monitoring, records of the monitoring results shall be retained at the facility and made available to the Community Development Director upon request. If expressly required by the Community Development Director, a written report of the annual monitoring shall be prepared and submitted to the Community Development Director.
- 18) By written notice, the Community Development Director may require any industrial facility identified in accordance with this section to implement a monitoring program that includes the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility, oil and grease, COD, pH, BOD, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(ii) and (iv). The Community Development Director may require written reports of any such monitoring to be submitted to him/her.
- 19) By written notice, the Community Development Director may require any industrial facility identified in this section to conduct semi-annual or annual monitoring of stormwater discharges or the Community Development Director may specify an alternative monitoring frequency and/or specify additional parameters to be analyzed. The Community Development Director may require written reports of any such additional monitoring to be submitted to him/her.
- 20) The operator shall retain the SWPPP until at least one year after stormwater discharges associated with industrial activity at the facility are eliminated or that operator is no longer operating the facility, and a Notice of Termination (NOT) in compliance with subsection (9) has been submitted. The operator shall retain all records of all monitoring information, copies of all required reports and records of all data used to complete the NOI, until at least one year after all stormwater discharges associated with industrial activity at the facility are eliminated, or the operator ceases to operate that facility and the required Notice of Termination (NOT) has been submitted.
- 21) For discharges subject to the semi-annual or annual monitoring requirements of part VI.B of the Industrial General Permit, in addition to the records retention requirements of the subsection above, operators are required to retain for a six-year period from the date of sample collection records of all monitoring information collected. Operators must submit such monitoring results, and/or a summary thereof, to the Community Development Director upon his/her request.
- 22) As expeditiously as practicable, but in no case later than October 1, 1995, any discharge composed of coal pile runoff shall comply with the following limitations: no discharge shall exceed a maximum concentration for any time of 50 mg/l total suspended solids, nor shall such runoff be diluted with stormwater or other flows in order to meet this limitation; the pH of such discharges shall be within the range of 6.0-9.0. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff which is associated with a ten-year, 24-hour rainfall event shall not be subject to the 50 mg/l limitation for total suspended solids.

23) After October 1, 1995, no discharge shall contain any of the following hazardous metals in a concentration exceeding the maximum allowable concentrations (in mg/l) of each of the hazardous metals listed below:

<b>Total Metal</b>	<b>Monthly Average</b>	<b>Daily Composite</b>	<b>Single Grab</b>
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	0.1	0.2
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

24) Where all stormwater discharges associated with industrial activity that are authorized by this article and by the NPDES permit for those discharges from industrial activities are eliminated, or where the operator of stormwater discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the Community Development Director a Notice of Termination (NOT) that includes the information required for Notices of Termination by part IX of the Industrial General Permit.

- b) Any owner of a facility with a stormwater discharge associated with industrial activity to which subsection (a) applies, whether or not he/she is an operator of the facility, is jointly and severally responsible for compliance with the Best Management Practices (BMP) measures required in the SWPPP for the facility and for compliance with the effluent limitations for coal pile runoff and hazardous metals specified in subsections (a)(22) and (a)(23) above.
- c) Upon request by the Community Development Director, all owners and operators of any facility that experiences a problem complying with the requirements of this article, the Industrial General Permit or any applicable individual or group NPDES permit issued for stormwater discharges from the industrial facility shall consult with the Community Development Director, any other representative of the City and any third party designated by the City in an attempt to achieve compliance as soon as practicable. If compliance is not achieved to the City's satisfaction, the City may in its discretion report the noncompliance to the EPA and/or the State, and/or the City may itself undertake any enforcement action authorized by Section XII, XIV or XV of this article. Exercise of the City's option for consultation under this subsection shall not be a bar against or prerequisite for taking any other enforcement action against any owner or operator of the facility.

**SECTION X  
COMPLIANCE MONITORING**

- a) Right of Entry; Inspection and Sampling.
  - 1) The Community Development Director shall have the right to enter the premises of any person discharging stormwater to the Municipal Separate Storm Sewer System (MS4) or to waters of the United States to determine if the discharger is complying with all requirements of this article and with any State or Federal discharge permit, limitation or requirement. Dischargers shall allow the Community Development Director 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 Community Development Director, upon request, any SWPPPs, modification 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.

- 2) 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 Community Development Director will be permitted to enter without delay for the purpose of performing his/her responsibilities.
  - 3) The Community Development Director 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.
  - 4) The Community Development Director 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.
  - 5) The Community Development Director 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.
  - 6) 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 Community Development Director and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
  - 7) Unreasonable delays in allowing the Community Development Director access to the discharger's premises shall be a violation of this article.
- b) Search Warrants. If the Community Development Director 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 Community Development Director may seek issuance of a search warrant from any court of competent jurisdiction.

## SECTION XI

### CITIZEN PARTICPATION; PUBLICATION OF LIST OF DISCHARGERS IN SIGNIFICANT NONCOMPLIANCE

- a) Citizen Reports of Violations:
- 1) All citizens are encouraged to report to the Community Development Director or his/her designee any spills, releases, illicit connections, other instances of anyone discharging pollutants into the MS4 or waters of the United States and any other violation of this article of which they become aware.
  - 2) The Community Development Director will designate an individual or office within his/her division, department, etc., to receive all such citizen reports by telephone, in writing and in person. A written record of each citizen report will be prepared and kept on file for a period of 3 years, and a copy of the City's record of the report will be furnished to the reporting citizen upon request. Also upon request, the Community Development Director will inform the reporting citizen of any action undertaken by the City in response to the citizen's report.
- b) Publication of List of Dischargers in Significant Noncompliance.
- 1) The Community Development Director may periodically publish, in a daily newspaper generally distributed within the City, a list of owners and operators of discharges to the MS4 or waters of the United States from sites of construction and industrial activity which, during the previous 12 months, were in significant noncompliance with the requirements of this article. The term "significant noncompliance" shall mean:

- a) Introducing or causing to be introduced into the waters of the United States any discharge that violates a water quality standard;
- b) Introducing or causing to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit or any State-issued discharge permit for discharges from the City's MS4;
- c) Any connection of a line conveying sanitary sewage, domestic or industrial, to the MS4, or allowing any such connection to continue;
- d) Any discharge of pollutants to the MS4 or waters of the United States that has caused imminent or substantial endangerment to the health or welfare of persons or to the environment or has resulted in the (City Engineer's) exercise of his/her emergency authority to halt or prevent such a discharge;
- e) Any violation that has resulted in injunctive relief, civil penalties or criminal fine being imposed as a judicial remedy under Section XIV of this article;
- f) Any other violation(s) which the Community Development Director determines to be chronic or especially dangerous to the public or to the environment; or
- g) Any failure to comply with a compliance schedule, whether imposed by the City or by a court.

**SECTION XII  
ADMINISTRATIVE ENFORCEMENT REMEDIES**

- a) Warning Notice. When the Community Development Director finds that any person has violated or continues to violate any provision of this article, or any order issued hereunder, the Community Development Director 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 section shall limit the authority of the Community Development Director to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.
- b) Notice of Violation. When the Community Development Director finds that any person has violated any provision of this article, or any order issued hereunder, the Community Development Director 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 Community Development Director. 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 Community Development Director within ten (10) days of receipt of this 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 this notice of violation. Nothing in this section shall limit the authority of the Community Development Director to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.
- c) Consent Orders. The Community Development Director may enter into consent order, 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), (f) and (g) of this section and shall be judicially enforceable.

- d) Show Cause Hearing. The Community Development Director 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 Community Development Director 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 XIII(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 Community Development Director finds that any person has violated or continues to violate any provision of this article, or any order issued hereunder, the Community Development Director 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 Community Development Director 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, the waters of the United States or any other aspect of the environment, the Community Development Director may issue an order to the violator directing him/her to undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4, the waters of the United States or any other aspect of the environment, and/or to restore any part of the MS4, the waters of the United States, or any other aspect of the environment that has been harmed. Such remedial abatement and restoration action may include but not be limited to monitoring, assessment and evaluation of the adverse effects and determination of the appropriate remedial, abatement and/or restoration action; confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination; prevention, minimization, and/or mitigation of any damage to the public health, welfare or the environment that may result from the violation; and restoration or replacement of City property or natural resources damaged by the violation. The order may direct that the remediation, abatement and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this subsection does not relieve the violator of liability for any violation, including any continuing violation. Issuance of an order under this subsection shall not be a bar against or a prerequisite for taking any other action against any responsible party.
- g) Emergency Cease and Desist Orders. When the Community Development Director 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 Community Development Director may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:
- 1) Immediately comply with all ordinance requirements; and
  - 2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of any 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 Community Development Director 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 connections or other municipal utility services. The Community Development Director may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Community Development Director 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 Community Development Director within 3 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 Community Development Director finds that any operator of a construction site has violated or continues to violate any provision of Section XIII of this article, or any order issued thereunder, the Community Development Director 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 Community Development Director, 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.

### **SECTION XIII RIGHT TO RECONSIDERATION; HEARING AND APPEAL**

- a) Reconsideration and Hearing.
- 1) Any person subject to a compliance order under Section XII(e), a remediation, abatement or restoration order under Section XII(f), an emergency cease and desist order under Section XII(g) or a red tag order under Section XII (h) of this article may petition the Community Development Director to reconsider the basis for his/her order within three (3) 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 XII(e), remediation or restoration order under Section XII(f), and red tag order under Section XII(h) shall be stayed pending the City Engineer's reconsideration of the petition, and any hearing thereon, unless the Community Development Director expressly makes a written determination to the contrary. The effectiveness of any emergency cease and desist order under Section XII(g) shall not be stayed pending the Community Development Directors' reconsideration, or any hearing thereon, unless the City Engineer expressly and in writing stays his/her emergency order.
  - 5) Within fifteen (15) days of the submittal of a petition for reconsideration, the Community Development Director shall either:
    - a) Grant the petition and withdraw or modify the order accordingly;
    - b) Deny the petition without hearing if no material issue of the 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 Community Development Director pursuant to subsection (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 Community Development Director 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 Community Development Director for action thereon.
- 8) 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.
- 9) After the Community Development Director 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 Community Development Director may modify his/her order as is appropriate based upon the evidence and arguments presented at the hearing and his/her action on the petition. Further orders and directives as are necessary and appropriate may be issued.

b) Appeals

- 1) Any person whose petition for reconsideration by the Community Development Director 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 Community Development Director issued following a show cause hearing under Section XII(d), may appeal the action of the Community Development Director to the City Council by filing a written appeal with the City Council within fifteen (15) days of the person's notice of the Community Development Director's adverse action on the petition for reconsideration, or within twenty-one (21) days of the person's notice of the issuance of the order following the show cause hearing, as the case may be.
- 2) Failure to submit a timely written appeal to the City Council shall be deemed to be a waiver of further administrative review.
- 3) In its written appeal to the City Council, the appealing party shall indicate the particular provisions of the order objected to, the particular determinations of the Community Development Director that are contested, the reasons that the Community Development Director's order and/or determinations are contested and any alternative order that the appealing party would accept.
- 4) The effect of the Community Development Director's order, as issued or modified, shall not be stayed pending the appeal to the City Council unless the City Council expressly so states.
- 5) Within twenty-one (21) days of the submittal of a written appeal to the City Council, the City Council shall hear and consider the appeal in open meeting. The appellant shall be notified at least seven (7) days in advance of the date and time of the City Council meeting at which the appeal will be heard and considered.



- 6) The appellant shall have the right to public appearance before the City Council to present oral and written statements in support of his/her appeal, if the City Council wishes to consider testimony of witnesses or other evidence beyond that in the record of any hearing before the Community Development Director, the City Council may remand the matter to the Community Development Director for the taking of additional testimony or other evidence.
- 7) Upon consideration of any written and oral statements made to the City Council, as well as the record made before the Community Development Director, the City Council shall act on the appeal by affirming, vacating or modifying the order of the Community Development Director, and/or remanding the matter to the Community Development Director for further action.
- 8) Following final action by the City Council on the appeal, and adversely affected party may challenge such action by the City Council in an appropriate court of competent jurisdiction.

**SECTION XIV  
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;
  - 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 on 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 Tarrant 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) through (f) above; or
  - b) Compels the specific performance of any action that is necessary for compliance with any provisions of this article that relates to any matter specified in subsections (1)(a) through (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) through (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 the ordinance; and
- b) After the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

b) Criminal Penalties:

- 1) Any person who has violated any provision of this 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 in accordance with the general penalty provision found in Section 1.01.009 of this Code.
- 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 in accordance with the general penalty provision found in Section 1.01.009 of this Code.
- 3) In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence, or other state of mind of the violator and any other factor as justice requires.

c) Civil Suit Under Texas Water Code. Whenever it appears that a violation or threat of violation of any provision of Section 26.121 of the Texas Water Code, or any rule, permit or order of the State Commission on Environmental Quality, has occurred or is occurring within the jurisdiction of the City, inclusive of its extraterritorial jurisdiction, the City, in the same manner as the State Commission on Environmental Quality, 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 Chapter 7 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 Chapter 7 of the Texas Water Code. In any suit brought by the City under this subsection, the State Commission on Environmental Quality 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 action against a violator. The City is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently.

## SECTION XV SUPPLEMENTAL ENFORCEMENT ACTIONS

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

b) Liability Insurance. The Community Development Director may, by written notice, order any owner or operator of a source of stormwater discharge associated with construction or industrial activity to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value determination by the Community Development Director that is sufficient to remediate, restore and abate any damage to the MS4, the waters of the United States or any other aspect of the environment that is caused by the discharge.

- c) Public Nuisances. A violation of any provision of this article or any order issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the Community Development Director. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance.

**SECTION XVI  
FEES AND CHARGES**

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

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

**SECTION XVII  
SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION XVIII  
CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of ordinances and the Code of the City of Sansom Park, Texas, as amended, except where the provisions are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

**SECTION XIX  
PENALTY CLAUSE**

Any person, firm or corporation who violates, disobeys, omits, neglects, refuses or fails to comply with or who resists the enforcement of any provision of this article shall be fined in accordance with the general penalty provision found in Section 1.01.009 of this code per violation, per day, for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION XX  
PUBLICATION CLAUSE**

The City Secretary of the City of Sansom Park is hereby directed to publish the caption, penalty clause and effective date clause in the official newspaper at least once within ten (10) days after the passage of this Ordinance.

**SECTION XXI  
EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

**PASSED AND APPROVED** this the 18<sup>th</sup> day of June, 2015.

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Jim Barnett, Jr.  
Mayor

**ATTEST:**

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Mary Beth Thomas  
City Secretary

**APPROVED AS TO FORM AND CONTENT:**

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D. Lee Thomas  
City Attorney