



# Sachse, Texas

Sachse Police Station  
3815-D Sachse Road  
Sachse, Texas 75048

## Meeting Agenda City Council Workshop

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Tuesday, July 7, 2015

6:30 PM

Council Chambers

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1. The City Council of the City of Sachse will hold a Workshop Session on Tuesday, July 7, 2015, at 6:30 p.m. in the Council Chambers at the Sachse City Hall, 3815 Sachse Road, Building B, Sachse, Texas to discuss the following items of business:
3. City Manager Update Report: Briefing on current activities of staff including engineering, economic development, parks, public works, fire and police departments.
4. Discussion Items.

*Please note: These items are for discussion purposes only and no Council action will be taken. The workshop session is for City Council and staff discussion, citizen input is not permitted on this agenda.*

[15-2883](#) Discuss drainage policies in the City of Sachse.

#### Executive Summary

The City Engineer will present the City Council with the current drainage policies and policy options for future drainage projects and functions.

**Attachments:** [Presentation - Drainage Policy Discussion](#)

[Ordinance 1733 PDF](#)

[Rowlett Stormwater Utility Ordinance](#)

[Allen Stormwater Utility Ordinance](#)

[Richardson Stormwater Utility Ordinance](#)

6. Discuss All City Council Meeting Agenda items.
7. Adjournment.

State law prohibits the introduction or discussion of any item of business not posted at least seventy-two (72) hours prior to the meeting time.

Posted: July 3, 2015; 5:00 p.m.

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Michelle Lewis Sirianni, Interim City Secretary



## Legislation Details (With Text)

**File #:** 15-2883      **Version:** 1      **Name:** Discuss Drainage Policies in the City of Sachse  
**Type:** Discussion Item      **Status:** Agenda Ready  
**File created:** 6/29/2015      **In control:** City Council Workshop  
**On agenda:** 7/7/2015      **Final action:**  
**Title:** Discuss drainage policies in the City of Sachse.

### Executive Summary

The City Engineer will present the City Council with the current drainage policies and policy options for future drainage projects and functions.

### Sponsors:

### Indexes:

### Code sections:

- Attachments:** [Presentation - Drainage Policy Discussion](#)  
[Ordinance 1733 PDF](#)  
[Rowlett Stormwater Utility Ordinance](#)  
[Allen Stormwater Utility Ordinance](#)  
[Richardson Stormwater Utility Ordinance](#)

Date	Ver.	Action By	Action	Result
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### Title

Discuss drainage policies in the City of Sachse.

### *Executive Summary*

*The City Engineer will present the City Council with the current drainage policies and policy options for future drainage projects and functions.*

### Background

The City of Sachse has a diverse drainage system, including natural creeks and waterways, drainage channels, and underground storm systems. The City of Sachse maintains public drainage systems within the public right-of-way, and oversees the design and construction of drainage improvements associated with private development. At the June 15th Council Meeting, the City Council discussed drainage policies. Per the feedback recieved on the 15th, City staff has prepared this discussion item with additional information for the City Council to discuss.

### Maintenance

City Ordinance 1733 defines the responsibility of property owners regarding the maintenance of drainage easements and drainage facilities on private property. Currently, it is the responsibility of property owners to maintain drainage facilities that traverse private property.

In new residential developments, drainage systems are commonly placed within either a drainage easement or a lot owned by the homeowner's association (HOA). In these instances, the HOA is responsible for the maintenance of the drainage facilities as shown on the final recorded plat for the subdivision.

### Improvements

Historically, drainage improvement projects have been completed by the City as approved by the City Council and included in the Capital Improvement Plan. The funding source for these projects has been the General Fund.

### Funding Options

The General Fund is the primary funding source for the City and is utilized for a wide range of City expenses, including supplies & materials, maintenance, contract work, equipment, and personnel.

A Stormwater Utility Fund is a fund that could be established for the operation, maintenance, improvement, and expansion of public drainage systems. The funds are dedicated specifically for drainage projects and functions, and cannot be used for other activities in the City. The fund operates similar to the water and sanitary sewer utility funds that the City already has in place.

Many cities in our region have this type of fund established. For residential properties, the fee is typically a flat rate. For non-residential properties, the fee may be either a flat rate, or a sliding scale based upon the amount of impervious area (concrete, building, etc.). In a 2012 survey, the median residential stormwater utility fee was found to be \$3.80 per month.

In order to establish a stormwater utility fund, a rate study must be completed to establish the obligations of the utility, and the subsequent rate. City Council approval is also required.

### Policy Considerations

City Ordinance 1733 defines the responsibility of property owners regarding the maintenance of drainage easements on private property. The City of Sachse has historically funded drainage improvement projects through the General Fund, as identified in annual updates to the Capital Improvement Plan and approved by the City Council. Changes to current policy or establishment of a new policy would require approval by the City Council.

### Budgetary Considerations

None at this time. Changes to the current policy may have budgetary implications.

### Staff Recommendations

None.



# Drainage Policy Discussion

City Council

July 7, 2015

## Overview

- Current Policies and Practices in Sachse
  - City Ordinance 1733
  - Maintenance responsibility
  - Capital drainage projects
  - Past drainage improvement projects
- Stormwater Utility Fund
  - Creation, funding and rate structure
  - Sample cities
  - Potential benefits
  - Stormwater utility study
- Discussion & Next Steps

## Drainage System Maintenance in Sachse

- Maintenance includes:
  - Maintaining vegetation (mowing, landscaping, tree removal)
  - Debris removal (trash, silt, tree limbs)
  - Erosion (slope protection)



## City Ordinance 1733

- Identifies the property owner as being responsible for the maintenance of drainage easements on private property
- Passed by the City Council on May 15, 2000
- States:

### Private Drainage Facilities

Shall be defined as any drainage easement, floodway, and flood zone, located on private property, and not on public property.

### Maintenance

Keeping property free and clear of weeds, trash, and debris, maintaining erosion of soils, maintaining elevations as to allow proper water flow

## Drainage Maintenance Responsibility in Sachse

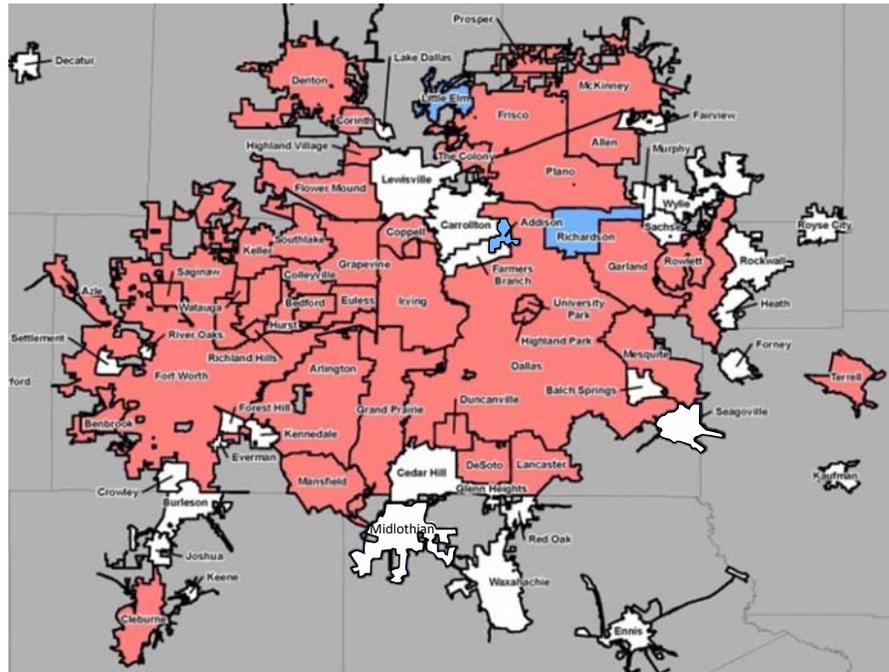
- City
  - Maintains drainage systems in the public right-of-way
  - Has historically maintained underground drainage systems located in easements on residential property
- Homeowner's Association (HOA)
  - Maintains drainage systems and detention ponds on HOA lots
  - In newer developments, maintains drainage easements on private property (Woodbridge West, Jackson Hills, Heritage Park)
- Property Owner
  - Maintains drainage systems on private property

## Stormwater Utility Fund

- Utility fund that can be established in the City for the operation, maintenance, improvement, and expansion of public drainage systems
- Establishing a Stormwater Utility Fund
  - Requires City Council approval and a rate study to be completed
- Fund Source
  - A stormwater utility fund is typically funded through a utility rate, similar to the water and sanitary sewer funds
- Typical rate structure:
  - Residential – typically a flat rate
  - Non-residential - either a flat rate, or a sliding rate based upon the amount of impervious area (concrete, building, hardscape)
- Many cities in our region have this type of fund established

# Stormwater Utility Fund City Map

- Fund Created Prior to 2011
- Fund Created In/After 2011
- No Fund

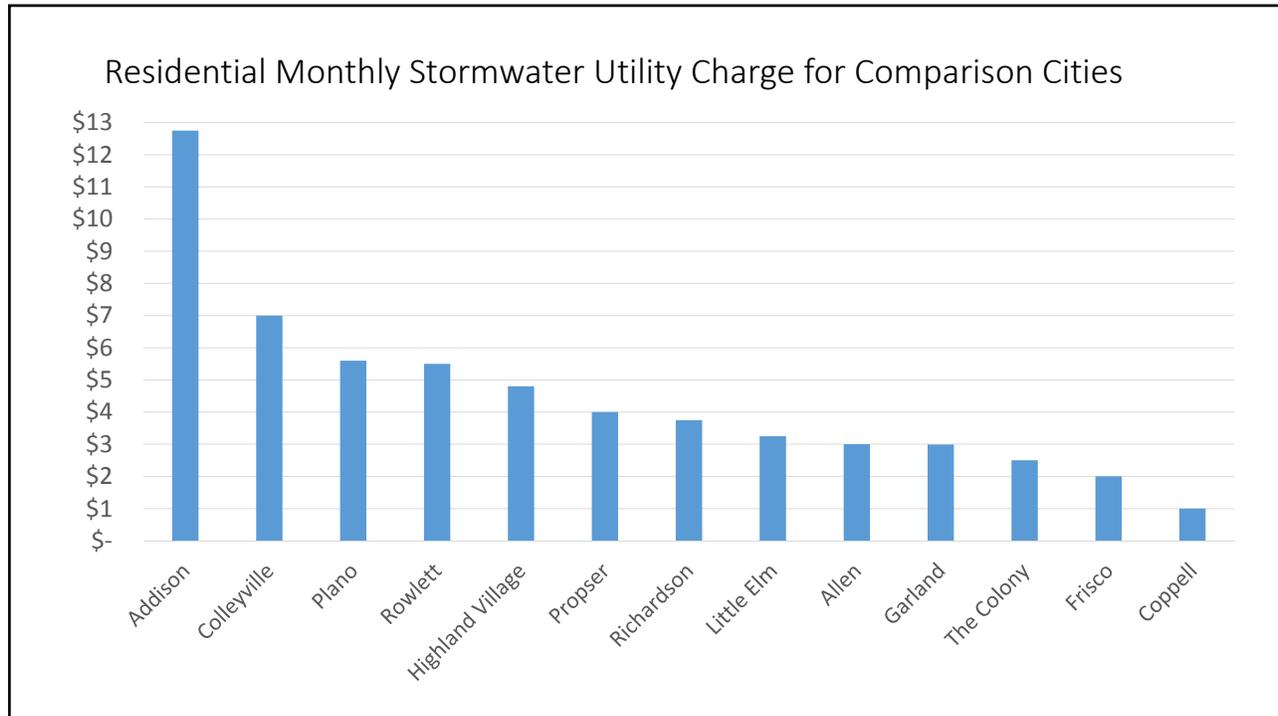


## Comparison Cities

- |                  |                    |              |
|------------------|--------------------|--------------|
| • Allen          | • Fairview         | • Plano      |
| • Addison        | • Garland          | • Prosper    |
| • Carrollton     | • Highland Village | • Richardson |
| • Colleyville    | • Lewisville       | • Rockwall   |
| • Coppell        | • Little Elm       | • Rowlett    |
| • Farmers Branch | • McKinney         | • The Colony |
| • Frisco         | • Murphy           | • Wylie      |

**Green = Has a Stormwater Utility Fund**

**Red = No Stormwater Utility Fund**



Sample Cities

City	Stormwater Utility Fund	Residential Fee	Commercial Fee
Allen	Yes	\$3.00	\$20.42 & up (tiered)
Richardson	Yes	\$3.75	\$0.105/100 SF of impervious area
Rowlett	Yes	\$5.50	\$13.50 (flat)
Wylie	No	-	-
Murphy	No	-	-

## Sample Cities

City	Stormwater Utility Fund	Major Creeks and Tributaries	Drainage Conveyances & Channels	Lot to Lot Drainage Easements	Detention Ponds
Allen	Yes	Dedicated to City (Parks & Trails)	Maintained by City or HOA	Maintained by HOA or Owner	Inspected by City Maintained by HOA/Owner
Richardson	Yes	Dedicated to City (Parks & Trails)	Maintained by City or HOA	Maintained by HOA or Owner	Inspected by City Maintained by HOA/Owner
Rowlett	Yes	Easement Maintained by City	Maintained by City or HOA	Maintained by HOA or Owner	Inspected by City Maintained by HOA/Owner
Wylie	No	Maintained by Owner or HOA	Maintained by Owner or HOA	Maintained by HOA or Owner	Maintained by HOA/Owner
Murphy	No	Maintained by Owner or HOA	Maintained by Owner or HOA	Maintained by HOA or Owner	Maintained by HOA/Owner

## Sample Ordinance – Main Points

- City provides Stormwater drainage for all property in the City
- Define responsibility of City, HOA, and property owners
- Defines drainage fee structure
- Drainage fee may be reduced if property owner installs on-site stormwater management controls that reduce impact
- Revenues from drainage charges committed specifically to the City drainage system
- Sets standards for compliance with TCEQ and EPA requirements
- Prohibition of polluting the storm drainage system

## Stormwater Utility Fund – Potential Benefits

- Maintenance of Drainage Conveyances
  - Repairs
  - Mowing, vegetation & debris removal
  - Erosion Control & Protection
- Improvements to Drainage Systems
  - Fund capital drainage projects
- Improved Stormwater Quality
  - Inspections of detention ponds and private drainage systems for compliance with local, state and federal requirements
  - Improved water quality programs, including:
    - Oil recycling programs
    - Street sweeping
    - Enhanced enforcement against illegal discharges (chemicals, oil, waste)

The level of benefits depends upon the combination of funding and program options

## Stormwater Utility Study

- Required to create a Stormwater Utility Fund
- Review of existing drainage systems, including:
  - Large creeks and tributaries
  - Floodplain obligations & hazards
  - Public drainage systems
  - Improved and unimproved drainage channels
- Identify obligations
- Identify potential stormwater programs, including:
  - System maintenance
  - Capital projects
  - Water quality programs
- Develop rate options for consideration

## Discussion Items & Next Steps

- Policy Review
  - Drainage maintenance responsibility
  - Funding for drainage expansion & improvement projects
  
- Next Steps
  - Direction on any desired changes to the current policies
  - Direction on stormwater utility study (may be included in the FY 15-16 Budget)

Ordinance No. 1733

AN ORDINANCE AMENDING CHAPTER 3, SECTION 15 E, OF THE CODE OF ORDINANCES OF THE CITY OF SACHSE, TEXAS, ENTITLED FLOOD HAZARD AREA REGULATIONS; TO PROVIDE FOR DEFINITIONS OF PRIVATE DRAINAGE FACILITIES AND MAINTENANCE; PROVIDING FOR A REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATION; AND PROVIDING AN EFFECTIVE DATE.

**Be It Ordained By The City Council Of The City Of Sachse, Texas:**

Section I

That Chapter 3, Section 15 E Definitions, of the Code of Ordinances of the City of Sachse, Texas Is Hereby Amended to Add:

PRIVATE DRAINAGE FACILITIES:

Shall be defined as any drainage easement, floodway, and flood zone, located on private property, and not located on public property.

MAINTENANCE:

Keeping property free and clear of weeds, trash, and debris, maintaining erosion of soils, maintaining elevations as to allow proper water flow.

Section II

All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section III

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and section 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 IV

Whenever in this Ordinance an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Ordinance, the doing of an act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punished by a fine as provided in Chapter 1, Section 7 of the City of Sachse Code of Ordinances provided, however, that no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the State. Each day any violation of this ordinance shall continue shall constitute a separate offense.

Section V

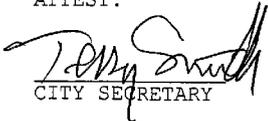
This Ordinance will take effect immediately from or after its passage and the publication of the caption as the law in such cases provides.

**PASSED AND APPROVED** this the 15th day of May, 2000 by the City Council of the City of Sachse, Texas.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

  
CITY SECRETARY

**CITY OF ROWLETT, TEXAS**

**ORDINANCE NO. 3-19-02E**

**AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF THE "ROWLETT MUNICIPAL DRAINAGE UTILITY SYSTEM;" MAKING CERTAIN FINDINGS AND RECITALS IN REGARD TO SAID SYSTEM; AND ENACTING PROVISIONS INCIDENT AND RELATING TO THE SUBJECT AND PURPOSES OF THIS ORDINANCE**

**WHEREAS**, pursuant to Subchapter C of Chapter 402 of the Local Government Code, known as the "Municipal Drainage Utility Systems Act" (the "Act"), the City Council of the City of Rowlett, Texas (the "City") is authorized and empowered to adopt the Act; and

**WHEREAS**, the Act requires that the City, through its governing body, must find that the City will (i) establish a schedule of drainage charges against all real property in the municipality subject to charges under the Act, (ii) provide drainage for all real property in the City on payment of drainage charges, except real property exempted under the Act and (iii) offer drainage service on nondiscriminatory, reasonable and equitable terms; and

**WHEREAS**, the Act requires that prior to enacting the ordinance adopting the provisions of the Act, the governing body must publish a notice in a newspaper of general circulation in the City stating the time and place of a public hearing to consider the proposed ordinance; and

**WHEREAS**, the City has satisfied the procedural requirements established by the Act as conditions precedent to the adoption of this ordinance; and

**WHEREAS**, the City has found and determined and does hereby find and determine that it is appropriate to adopt the Act and to establish a municipal utility drainage system as provided in the Act; and

**WHEREAS**, the City has further found and determined and does hereby further find and determine that drainage of the City to be a public utility within the meaning of the Act;

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

**SECTION 1.** That the preambles of this ordinance set forth above are hereby incorporated by reference as if fully set forth herein and are true and correct findings and determinations of the City.

**SECTION 2.** That the Act is hereby adopted and shall be fully implemented as provided by the Act and by the City Council; and the drainage of the City is hereby found to be a public utility within the meaning of the Act.

**SECTION 3.** That the City will provide drainage for all real property within its boundaries upon payment of the determined drainage charges, as defined in the Act, and

excluding certain exempted real property, and that the fees, assessments, and charges will be based on non-discriminatory, reasonable, and equitable terms.

**SECTION 4.** That the City is hereby authorized to bill the drainage charges incurred as a result of the adoption of the Act and establishment of the municipal utility drainage system thereunder, with its other public utility billings, the drainage charge to be separately identified.

**SECTION 5.** That, upon the passage of this ordinance, the City may levy a schedule of drainage charges upon satisfaction of the procedural requirements provided in the Act.

**SECTION 6.** That the City is authorized to exempt certain entities or persons from all ordinances, resolutions, and rules which the City may adopt from time to time in connection with the adoption of the Act and the establishment of its municipal utility drainage system.

**SECTION 7.** That this ordinance shall take effect immediately from and after its passage and approval, and it is so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, this 19<sup>th</sup> day of March, 2002.

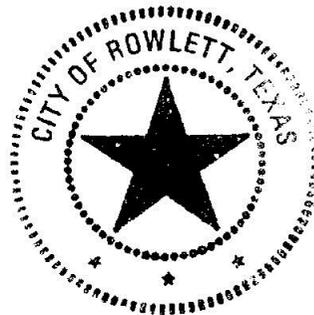


Mayor  
City of Rowlett, Texas

**ATTEST:**



City Secretary  
City of Rowlett, Texas



**APPROVED AS TO FORM:**



City Attorney  
City of Rowlett, Texas

**ORDINANCE NO. 2925-7-10**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 6, TO ADD ARTICLE VII, ESTABLISHING STORM WATER MANAGEMENT REGULATIONS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:**

**SECTION 1.** The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by Chapter 6, in part, to add Article VII, to establish storm water management regulations, to read as follows:

**“ARTICLE VII. STORM WATER MANAGEMENT**

**DIVISION 1. GENERAL**

**Sec. 6-161. Title.**

This Article shall be known as the “Storm Water Management Ordinance” of the City of Allen, Texas.

**Sec. 6-162. Purpose.**

The purpose and objectives of this Article are as follows:

- (a) To protect human life, health, and property;
- (b) Minimize the expenditure of public funds for building and maintaining flood control and storm drainage projects and cleaning sediment out of storm drains, streets, sidewalks and watercourses
- (c) To preserve the natural beauty and aesthetics of the community;
- (d) To maintain and improve the quality of surface water within the City;
- (e) To regulate the contribution of pollutants and prohibit illicit connections to the municipal separate storm sewer system (MS4) and natural waters within the City;
- (f) To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers and natural waters of the City;
- (g) To encourage recycling of used motor oil and safe disposal of other hazardous consumer products, and;

- (h) To enable the City to comply with all federal and state laws and regulations applicable to storm water discharges.

**Sec. 6-163. Conflicts.**

No provision of this Article is intended to, nor shall any part hereof be construed, so as to modify, repeal or conflict with any other ordinance, rule, regulation or state or federal law including the Texas Water Code. The requirements of this Article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**Sec. 6-164. Administration.**

Except as otherwise provided herein, the City Manager shall administer, implement and enforce the provisions of this Article. For public works construction projects that are administered, performed, contracted, or funded (in whole or in part) by the City, the City Manager or duly appointed representative of the City department that is administering, performing, or contracting for the construction project shall implement and enforce the provisions of this Article. The City Manager or duly appointed representative of each City department shall also implement and enforce the provisions of this Article for all municipal operations under such person's direction.

**Sec. 6-165. Interpretation.**

In the interpretation and application of this Article, all provisions shall be:

- (a) Considered minimum requirements, and;
- (b) Deemed neither to limit nor repeal any other powers granted under state statutes.

**Sec. 6-166. Application.**

This Article shall apply to the incorporated limits and extraterritorial subdivision jurisdiction of the City.

**Sec. 6-167. Responsibility.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore this article does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

**Sec. 6-168. Definitions.**

The following words and terms shall have the respective meanings assigned. Where words or terms are not defined, they shall have their ordinary accepted meaning within the context with which they are used. Words in the singular include the plural and the singular. Words in the masculine gender include the feminine, and the feminine the masculine.

*Appeal* means a request for review or interpretation of any provisions of this Ordinance or a request of a variance.

*Best Management Practices or BMP* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the

United States. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

*Capital Improvement Project* means any construction performed or funded in whole or part by the City that provides improvements on a property or public facility to increase its value.

*CFR* means Code of Federal Regulations.

*Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Charity Car Wash* means a car washing event typically associated with fund raising for a school, a sports association or any other youth organization or charity. These washes are generally temporary in nature, usually lasting two days or less.

*City* means the City of Allen, Texas

*City Council* means the governing body of the City.

*City Manager* means the chief executive officer of the City, or designee.

*Commencement of Construction* means the initial disturbance of soils associated with clearing, grading, excavating, landfilling, and other construction activities.

*Commercial* means activity pertaining to any business, trade, industry, or other activity engaged in for profit.

*Common Plan of Development* means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

*Construction* means any land disturbing activity that involves clearing, grading, excavation, landfilling, or other placement, movement, removal, or disposal of soil, rock, or other earth materials.

*Contaminated* means containing a harmful quantity of any substance.

*Detention* means the temporary storage of storm water runoff with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

*Detention Basin* means a basin or alternative structure designed for the purpose of temporary storage of stream flow or surface water runoff and provides a gradual release of stored water at controlled rates.

*Developer* means the person, business, partnership, corporation, or association responsible for the development of a subdivision, addition or tract of land.

*Development* means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, dredging, filling, grading, paving, excavation, drilling operations clearing, landfill or land disturbance; or any change in use, or alteration or extension of the use, of land.

*Director* means any city department representative, or designated representative authorized by the City manager to administer, implement and enforce the provisions of this Article.

*Discharge* means introduction of any pollutant or storm water into the municipal separate storm sewer system (MS4) or into Waters of the United States.

*Disturbance* means any operation or activity, such as clearing, grubbing, filling, excavating, mining, cutting, grading, or removing channel linings, which results in the removal or destruction of protective cover of soil, including vegetative cover, channel linings, retaining walls, and slope protection.

*Disturbed Areas* means any area or tract of land in which any operation or activity, such as clearing, grubbing, filling, excavating, mining, cutting, grading, or removing channel linings has occurred and results in the removal or destruction of protective cover of soil, including vegetative cover, channel linings, retaining walls, and slope protection.

*Domestic Sewage* means discharges of liquid waste matter from homes, apartment complexes, office buildings, institutions that contain pathogens and byproducts that are harmful to humans and the environment.

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

*Erosion* means the wearing away of a land surface by running water, wind, ice or other geological agents, including such processes as gravitational creep.

*Erosion Control Plan* means a property design site plan signed and sealed by a Professional Engineer licensed in the State of Texas where land disturbing activity will take place that outlines the locations and types of structural devices, procedures and practices to be used on a construction site in order to control erosion and sediment deposits.

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

*Final Stabilization* means the state when all soil disturbing activities at a site have been completed, and a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures have been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

*Flood or Flooding* means a general and temporary condition of partial or complete inundation of normally dry land surfaces from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.

*Grading* means the stripping, cutting, filling, stockpiling or combination thereof that modifies the existing land surface contour.

*Grass* means any member of the botanical family Gramineae, herbaceous plants with bladelike leaves arranged in two ranks on a round to flattened stem. Common examples are fescue, Bermuda grass and Bahia grass. The term "grass" is sometimes used to indicate a combination of grass and legumes grown for forage or turf purposes.

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

*HOA* means Homeowners' Association.

*Household Hazardous Waste or HHW* means any product found in the home that can be hazardous to the environment if not disposed of correctly. Examples of household hazardous waste include cleaning solutions, pesticides, pool chemicals, motor oil, antifreeze, or used batteries.

*Illicit Connections* means (1) any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or (2) any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

*Impervious Cover* means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

*Infiltration* means the process of percolating storm water into the subsoil.

*Inlet* means a surface connection to a closed drain system, a structure at the diversion end of a conduit, or the upstream end of any structure through which storm water may flow.

*Landowner* means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

*Livestock Containment Area* means a lot or facility that stables, confines, and feeds or maintains livestock in either an open or housed lot for a total of 45 days or more in any 12-month period.

*Municipal Operations* means day to day operation and maintenance activities by the City that have the potential for contributing pollutant runoff to the MS4.

*Municipal Separate Storm Sewer System or MS4* means the system of conveyances (including but not limited to sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, that is not used for collecting or conveying domestic sewage.

*National Pollutant Discharge Elimination System or NPDES* means a program to issue authorizations to discharge pollutants into waters of the United States if certain conditions are met.

*NPDES General Permit for Storm Water Discharges from Construction Sites or Construction General Permit* means the Construction General Permit issued by EPA on June 24, 1998, and published in Volume 63 of the Federal Register at page 36485 on July 6, 1998, and any subsequent modifications or amendments thereto.

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

*Nonpoint Source Pollution* means pollution from any source generally carried off land by storm water runoff that are diffuse and do not have a single point of origin or are not introduced into a receiving stream from a specific outlet.

*Non-Structural Best Management Practice or BMP* means preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water

quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas.

*Notice of Intent or NOI* means the Notice of Intent that is required by the Construction General Permit or other General Permit for the discharge of storm water.

*Notice of Termination or NOT* means the Notice of Termination that is required by either the Construction General Permit or other General Permit for the discharge of storm water.

*Operator* means the person or persons who, either individually or taken together, meet the definition of "Operator" as defined in the TPDES General Permit TXR150000 document, Part I, Section B , dated February 15, 2008 (also known as the Construction General Permit).

*Outfall* means the point where water flows from a stream, river, lake or artificial drain.

*Owner / Property Owner* means the person or persons who own all or a part of a facility or property.

*Permanent (Post-Construction) Erosion Control Devices* means devices or practices installed prior to final approval of a projects' construction and maintained after said final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, storm sewer inlet/outlet structures, storm sewer outlet velocity control structures and storm water detention or retention structures.

*Permanent Ground Cover* means permanent vegetative cover existing or placed on all open soil areas of a property not occupied by a permanent structure or other landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the ground surface.

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

*pH* means measure of acidity or alkalinity.

*Pollutant* means any substance introduced into the environment that adversely affects the usefulness of a resource, whether in minute or mass quantity, and may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*Pollution* means unauthorized contamination of surface or subsurface waters or land.

*PST* means Petroleum Storage Tank.

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

*Redevelopment* means any construction, alteration or improvement of an area where the existing land use has already been defined as something other than open space or agricultural.

*Release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing, directly or indirectly, into the MS4 or the waters of the United States.

*Responsible Party* means a business entity, franchised utility company, developer, property Owner, contractor or holder of a building permit who is required to comply with the terms of this Article.

*Runoff* means excess precipitation that makes its way toward stream channels or lakes as surface or subsurface flow.

*Sanitary Sewer or Sewer* means 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 a sewage treatment plant (and to which storm water, surface water, and groundwater are not intentionally admitted).

*Sediment or Silt or Sand* means solid soil material, both mineral and organic, that is being moved or has been moved from its original location by wind, gravity, flowing water or ice.

*Sewage or Sanitary Sewage* means domestic sewage and/or industrial waste that is discharged into the sanitary sewer system and passes through the sanitary sewer system to a sewage treatment plant utilized by the City for treatment.

*Site* means 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.

*Soil* means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of plants.

*Stabilized* means to be protected from possible erosion losses, usually by mechanical means or the use of vegetative cover.

*State* means the State of Texas.

*Stop Work Order or Red Tag* means an order issued which requires that all construction activity on a site be stopped, issued by the Chief Building Official or his/her designee.

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

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

*Storm Water Management* means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

*Storm Water Pollution Prevention Plan or SWPPP* means a plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, is designed to decrease soil erosion on a parcel of land and decrease off-site nonpoint source pollution.

*Structure* means any construction, including a building or any portion thereof, erected for the purposes of support, shelter or enclosure of persons, animals or property of any kind, including swimming pools located adjacent to a designated collector or arterial, as designated on the thoroughfare plan, decks in

excess of 30 inches in height, and roof overhangs exceeding three feet. A wooden fence eight feet or less in height shall not be considered a structure for purposes of this Article, nor shall a masonry, brick, or concrete wall or split rail or picket fence 36 inches or less located in front yards.

*Structural Best Management Practice or BMP* means any storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches.

*Surface Water in the State / Waters of the State* means lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, watercourses, waterways, wells, reservoirs, aquifers, irrigation systems, drainage systems the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHWM) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, public or private, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state.

*Temporary Erosion Control Devices* means devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

*Texas Commission on Environmental Quality or TCEQ* means the State of Texas agency by that name, the regional offices thereof, any state department, agency, or commission that may succeed to the authority of the TCEQ, and any duly authorized official of TCEQ or such successor agency.

*Texas Pollutant Discharge Elimination System or TPDES* means a program to issue authorizations to discharge pollutants into waters of the State if certain conditions are met.

*TPDES General Permit for Storm Water Discharges from Construction Sites or Construction General Permit* means the latest Construction General Permit issued by TCEQ as authorized under provision of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code, as amended.

*TPDES Permit* means a permit issued by the TCEQ that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable to an individual, group, or general area-wide basis.

*Uncontaminated* means not containing a harmful quantity of any substance.

*USC* means the United States Code.

*Vegetative Cover* means plants of all sizes and species typically found in an area, irrespective of whether they have forage or other value, but especially used to refer to vegetation producing a mat on or immediately above the soil surface. Temporary vegetative cover refers to the use of annual plants for cover until seasonably viable to establish permanent vegetative cover. Permanent vegetative cover refers to the use of perennial plants, grown or established to a mowable or other condition acceptable to this Article.

*Violation* means the failure of a person, individual, owner, landowner, developer, builder, operator, structure or other development to be fully compliant with this Article.

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

*Watercourse* means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

*Water Quality Standard* means 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 Ordinance 307 of Title 31 of the Texas Administrative Code.

*Watershed* means the area drained by a stream or drainage system.

*Waters of the United States (Waters of the US)* has the meaning described in the latest revisions of the Code of Federal Regulations (40 CFR 122.2).

*Yard Waste* means leaves, grass clippings, yard and garden debris and brush that result from yard care.

#### **Sec. 6-169. General Prohibition.**

(a) No person shall introduce or cause to be introduced into the municipal separate storm sewer system any pollutants or waters containing any pollutants, other than storm water.

(b) It is an affirmative defense to a violation of Subsection (a) of this Section by the discharger that the discharge was not damaging the environment and complies with the City Water Conservation Ordinance or Water Conservation and Drought Contingency and Water Emergency Response Plan for the City, Texas, or 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 or TPDES permit (other than the NPDES permit for discharges from the MS4);

(2) A discharge or flow resulting from fire fighting not containing "hazardous materials" as defined in the Section 5-52 of the City Code of Ordinances, as amended, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;

(3) Agricultural storm water runoff;

(4) A discharge or flow from water line flushing or disinfection that contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;

(5) A discharge or flow from lawn watering, landscape irrigation, or other irrigation water;

(6) A discharge or flow from a diverted stream flow or natural spring;

(7) A discharge or flow from uncontaminated pumped groundwater or rising groundwater;

(8) Uncontaminated groundwater infiltration, as defined in 40 CFR §35.2005(20) to the MS4;

(9) Uncontaminated discharge or flow from a foundation drain, crawl space pump, or footing drain;

(10) 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;

- (11) A discharge of flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
  - (12) A discharge or flow from individual residential or charity car washing (external surfaces only);
  - (13) A discharge or flow from a riparian habitat or wetland.
  - (14) Dechlorinated swimming pool water (not filter backwash from a swimming pool or hot tub) that: contains no harmful quantities of chlorine or other chemicals; has a pH of 6.5 to 8.5, and the flow does not cause flooding or property damage.
  - (15) A discharge or flow from water used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance.
  - (16) Discharges associated with dye testing.
  - (17) Discharges or flows from a designated spray playground or spray park, provided the water feature is served by a separate water meter and a written agreement exists between the operator and the City, regarding limitations and restrictions to such use. (Facilities with recirculated water shall be permitted as pools through the Building & Code Department.
  - (18) Other similar occasional incidental non-storm water discharges.
- (c) No affirmative defense shall be available under Subsection (b) of this section if:
- (1) The discharge or flow in question has been determined by the Director to be a source of a pollutant or pollutants to the waters of the United States or to the MS4;
  - (2) Written notice of such determination has been provided to the discharger, and;
  - (3) The discharge has continued after the expiration of the time given in the notice to cease the discharge.

**Sec. 6-170. Specific Prohibitions and Illicit Discharges.**

- (a) No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City of Allen to violate a water quality standard, the City's TPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (b) No person shall dump, drain, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, throw, place or otherwise introduce or cause, allow, or permit to be introduced any of the following substances in or on any public street, alley, storm sewer, drainage structure, drainage channel, stream, river, pond or any other public property. The following are Illicit Discharges:
  - (1) Any used motor oil, antifreeze, grease, solvents, toxic chemicals, paint, stain or any other petroleum product or waste;
  - (2) Any industrial waste;
  - (3) Any hazardous waste or infectious waste, including household hazardous waste;

- (4) Any garbage, trash, filth, junk, domestic sewage or septic tank waste, cooking oil, grease trap waste, or grit trap waste;
- (5) Any trash, rubbish, refuse, or waste paper;
- (6) Any wastewater from a commercial car wash 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 that operates more than two (2) 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 or mechanical equipment exterior that contains any soap, detergent, degreaser, solvent, other harmful cleaning substance;
- (9) Any wastewater from commercial floor, rug, or carpet cleaning;
- (10) Any wastewater from the sawcutting, wash down or cleaning of pavement that contains soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washing or cleaning of pavement where any spill, leak, or other release of petroleum based products, hazardous material, hazardous substance, hazardous waste or other pollutant has occurred, unless all such released material has been previously removed;
- (11) Any effluent, overflow or blow down, from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or boiler;
- (12) Any ready-mixed concrete, mortar, ceramic, asphalt base material, hydromulch material, or any wastewater or substance from the cleaning of any vehicle or equipment containing, or used in transporting or applying, such material;
- (13) Any runoff or wash down water from an animal pen, kennel, or fowl or livestock containment area;
- (14) Any filter backwash from a swimming pool or fountain;
- (15) Any swimming pool or hot tub water that has not been dechlorinated, has a pH of less than 6.5 or greater than 8.5, causes flooding, property damage, or damage to the environment;
- (16) Any discharge from water line disinfection by superchlorination or other means unless the disinfecting chemical has been removed or attenuated to the point where it is not a pollutant;
- (17) Any fire protection water, not including fire fighting water used by the Fire Department, containing "hazardous materials" as defined in the Fire Protection and Prevention Ordinance of the City;
- (18) Any wastewater from a water curtain in a spray room used for painting vehicles or equipment;

- (19) Any contaminated or unpermitted storm water discharge associated with an industrial activity;
- (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;
- (22) Any petroleum oil, non-biodegradable cutting oil, transmission fluid, hydraulic fluid, brake fluid, power steering fluid, antifreeze or other household hazardous wastes;
- (23) Any rubble, debris, rubbish, tile, concrete, brick, asphalt, or other building material resulting from demolition activities;
- (24) Any ashes or burn refuse;
- (25) Any weeds, grass cuttings, brush, or other yard debris,
- (26) Solid or liquid substances which may cause obstruction to the flow in storm sewers or other interference with the proper operation of the storm water system;
- (27) Any kind of other matter that will cause damage to the MS4 or any receiving bodies of water.

(c) Sediment and Erosion Control

- (1) 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, landfilling, or other construction activities (including any placement, movement, removal, 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.
- (2) No person shall implement erosion or sediment control measures not currently approved by the City or the State.
- (3) A construction project (commercial, residential, or capital improvement) shall not be considered complete and acceptable by the City until Permanent Erosion Control measures have been installed to the City's satisfaction.
- (4) No person shall conduct any land disturbing or construction activities over one (1) acre in size without a Director approved Erosion Control Plan and a TCEQ submitted Storm Water Pollution Prevention Plan (SWPPP) for that area.
- (5) No person shall knowingly fail to install or to maintain erosion control devices as shown or represented in the approved Erosion Control Plan and/or Storm Water Pollution Prevention Plan (SWPPP), including maintenance of grass or sod and sediment cleaning of erosion control devices.
- (6) No person shall allow the build-up of off-site sediment from above or below ground construction related activities in any open space areas.

(d) No person shall connect or maintain a line conveying sanitary sewage, domestic or industrial, to the MS4.

(e) Any wash water from the service area, garage, or enclosure of a minor auto repair or fuel service station shall not discharge into the MS4.

(f) Regulation of Pesticides, Herbicides, and Fertilizers.

(1) No person shall use or cause to be used any pesticide, herbicide, or fertilizer contrary to any directions for use on any labeling required by state or federal law.

(2) 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.

(3) 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.

(4) If provided with a display notice containing the provisions of this Subsection, pertaining to the regulation of pesticides, herbicides, and fertilizers (or a reasonable description thereof), and the information that any user of the product may obtain further information from the Director or designated individual, 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.

(g) Used Oil Regulation

(1) No person shall:

(i) Pour, spill, leak, pump, empty, leach, dispose, or otherwise discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course;

(ii) Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill, or;

(iii) Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

(2) All businesses that change motor oil for the public and municipal waste transfer stations are encouraged to serve as public used oil collection centers as provided by Section 371.024, as amended, of the Texas Health & Safety Code, as amended.

(3) A retail dealer who annually sells directly to the public more than 500 gallons of 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.

(h) No person shall have inadequate or unsanitary sewage or plumbing facilities, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city and state that could pollute the MS4 sewer system.

(i) No person shall introduce or cause to be introduced into the sanitary sewer system any discharge of storm water, polluted or unpolluted, or any discharge that causes or contributes to causing the City to violate a water quality standard, its agreements associated with the regional sewage treatment plants, or any state issued permit.

(j) Any person that causes a spill, release, or other discharge of a prohibited substance or other pollutant to the MS4 is responsible for the cleanup and removal of the substance from the MS4 or any area adjacent to the MS4 that is exposed to storm water runoff. The Owner of the property on which the spill, release, or discharge occurred is responsible for the cleanup or removal of the substance from the MS4 or any area adjacent to the MS4 if the person that caused the spill, release, or discharge to the MS4 is unknown.

(k) Sanitary sewer overflows shall be prevented in any way possible. All sanitary sewer overflows shall be reported to the City of Allen as soon as the Owner, occupant, or person otherwise having control of the sanitary sewer becomes aware of the overflow and to the appropriate federal and state agencies within 24 hours.

(l) No person shall store items segregated for separate collection, disposal, recycling or reuse in a manner that allows pollutants to enter the MS4. Drums, dumpsters and polycarts shall be closed, not leaking, and in good condition.

(m) Parking lot storm drain inlets shall be maintained free of trash, litter, garbage, rubbish, grass clippings, leaves, and other debris material.

(n) Trash and litter on any parcel of land shall be collected for appropriate disposal prior to mowing.

#### **Sec. 6-171. Prohibition of Illicit Connections.**

(a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered in violation of this Article if such person connects or maintains a line conveying sewage to the MS4.

(d) Connections in violation of this Article must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Director.

(e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Director requiring that such location be completed. Results of these locations are to be documented and provided to the Director.

#### **Sec. 6-172. Watercourse Protection**

The Owner or Lessee of property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. The owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, such that the structures are not or will not become a hazard to the use, function, or physical integrity of the watercourse.

**Sec. 6-173. Cleanup.**

- (a) Spills and leaks of hazardous materials, hazardous substances, and hazardous wastes or harmful quantity of a pollutant, including motor vehicle fluids, shall be cleaned up immediately after the spill occurs or the leak is detected. Surface soil contaminated by the spill or leak must be removed or otherwise protected from contact with storm water.
- (b) Overflows of sanitary sewer and resultant contaminated storm water created within the MS4 shall be cleaned up immediately by the Owner, occupant, or person otherwise having control of the sanitary sewer.
- (c) Drip pans, absorbent mats, or equivalent controls shall be used to collect and properly dispose of leaking fluids from motor vehicles that are parked outside during maintenance and repairs or while awaiting repairs at commercial repair facilities. Used engines, transmissions, radiators, and other vehicle components that have automotive fluids in or on them shall be stored in a manner that prevents pollutants from entering the MS4.
- (d) Wash water, detergents, and solvents used for washing parts and equipment shall be collected for disposal in accordance with the appropriate Federal and State regulations. Vats of solvents or wash bins used outside shall be covered when not in use to prevent rainfall from filling the vat or bin and causing an overflow.
- (e) Trash, litter, garbage, rubbish, grass clippings, leaves, and other debris material removed from the inlets shall be disposed of in a trash receptacle or collected for composting and shall NOT be allowed to enter the MS4.
- (f) Any absorbent used for cleanup must be picked up before the next rainfall. If wash water is used to clean the spill or leak, the wash water must be collected for appropriate disposal and not allowed to flow into the MS4.

**Sec. 6-174. to 6-180. (Reserved)**

**DIVISION 2. STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES**

**Sec. 6-181. General Requirements.**

- (a) Private property owners, developers, or builders shall be responsible for the movement of soil from their property or construction site which results in accumulation of sediment in dedicated streets, alleys, lakes, ponds, any waterway or other private properties. Any accumulation or deposit of soil material beyond the limits of the property or in city streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public health, safety and comfort as determined by the Director shall constitute a nuisance and violation of this Section. The only exemptions to this provision are lands under active agricultural use. As soon as construction or modification to the exempted land is to begin so that the use of land will change from agriculture to any other use, then the land shall lose its exemption and become subject to the provisions of this article.
- (b) All Operators of construction sites shall use best management practices to control and reduce the discharge to the MS4 and to waters of the United States, of sediment, silt, earth, soil, and other

material associated with demolition, clearing, grading, excavation, and other construction activities to the maximum extent practicable. Permanent BMPs as required for post-construction water quality maintenance by the NPDES or TPDES Construction General Permit or other ordinances may be used during construction, as appropriate, for sediment and other pollutant control, and be restored to serve their post-construction function before development or redevelopment activities are completed.

(c) The best management practices used at construction sites may include, but are not limited to, the following measures:

- (1) 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 ceased. Stabilization measures may include: temporary seeding, permanent seeding, geotextiles, sod stabilization, vegetative buffer strips;
- (2) Minimizing the disturbance of areas using temporary erosion control fencing to protect areas, if necessary, adjacent to construction areas;
- (3) 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;
- (4) Minimization of the tracking of sediments off-site by vehicles, the generation of dust, and the escape of other windblown waste from the site;
- (5) Prevention of the discharge of building materials, including cement, lime, concrete, asphalt and mortar, to the MS4 or surface water in the State;
- (6) 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;
- (7) Implementation of proper waste disposal and waste management techniques, including covering waste materials, minimizing ground contact with hazardous chemicals and trash;
- (8) Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices to maintain each in good and effective operating condition; and
- (9) Installation of structural measures during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Installed structural measures may include, but are not limited to, the following:
  - (i) storm water detention structures (including wet ponds);
  - (ii) storm water retention structures;
  - (iii) flow attenuation by use of open vegetative swales and natural depressions;
  - (iv) other velocity dissipation devices;
  - (v) infiltration of runoff on site, and;
  - (vi) sequential systems which combine several practices.

Operators of construction sites are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with construction activity have terminated.

(d) Qualified personnel (provided by the Operator of the construction site) as described in TPDES General Permit No. TXR150000, shall conduct inspections, perform maintenance of controls, and maintain documentation for 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 fourteen calendar days and within twenty four (24) hours of the end of a storm that is one half (0.5) inches or greater.

(e) 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 of the State and the MS4. Based on the results of these inspections, best management practices shall be modified as appropriate, and as soon as is practicable.

(f) The Director may require plans and/or specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required in this Section that will be implemented on the construction site by means of an Erosion Control Plan and/or Storm Water Pollution Prevention Plan (SWPPP).

(g) The Director may deny approval of any permit or any other City approval necessary to commence or continue construction, or to receive a certificate of occupancy, on the grounds that the management practices described in the Erosion Control Plans, Storm Water Pollution Prevention Plan (SWPPP), or observed upon a site inspection by the Director are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation, or other construction activities to the maximum extent practicable.

(h) Any Owner of a site of construction activity, whether or not such Owner is an Operator, is jointly and severally responsible for compliance with the requirements in this Section.

(i) Any contractor or subcontractor on a site of construction activity, who is not an Owner or Operator, but who is responsible under such person's contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any willful or negligent failure on such person's part to adequately implement that control measure.

(j) Whenever the management practices at a construction site are modified (as a result of change in the construction project, in order to implement more effective management practices, in response to an order or request from the Director, or for any other reason), a written description of such modifications of the management practices may be requested by the Director. If requested, the new management plan must be submitted as soon as possible, but in no case later than seven (7) calendar days following the request.

(k) No land disturbing associated with development construction shall commence without the prior approval of a Director issued grading permit or a set of construction plans stamped by the City of Allen "Approved for Construction."

#### **Sec. 6-182. One Acre or Greater Disturbances.**

All Operators of sites of construction activity, including demolition, clearing, grading, excavation, and landfilling activities, that result in the disturbance of one or more acres of total land area, or are part of a common plan of development or sale within which one or more acres of total land area are disturbed, shall comply with the following additional requirements:

- (a) Any Operator who is required to obtain general permit coverage from the state for storm water discharges from a construction site under the TPDES General Permit for Storm Water Discharges From Construction Sites (Construction General Permit) must do so prior to commencement of land disturbing activities.
- (b) A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented prior to the commencement of construction activities as required in the Construction General Permit or any individual NPDES or TPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by this or any other City Ordinance or State requirement.
- (c) The Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and certified by a Licensed Professional Engineer or other professional, approved by the Director, certified in a discipline that includes erosion and sediment control principals appropriate for the site. The signature, date and seal of the Licensed Professional Engineer or other appropriate certification for the professional certifying the plan shall constitute his/her attestation to the best of his/her knowledge that the SWPPP fully complies with the requirements of the Construction General Permit, or with any applicable individual NPDES or TPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by or under this Ordinance. The SWPPP shall contain the name, title, and business address of the professional signing the SWPPP, and the date that he/she did so.
- (d) The SWPPP shall be updated and modified as appropriate and as required by the NPDES or TPDES permit and this Article. Any update or modification to the SWPPP that results in 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 shall be prepared, signed, dated, and sealed by a Licensed Professional Engineer or other professional, approved by the Director, certified in a discipline that includes erosion and sediment control principals appropriate for the site.
- (e) A copy of any SWPPP that is required by this Article shall be submitted to the Director in conjunction with any application for a building permit, demolition permit, early grading release, and/or any other City approval necessary to commence or continue construction at the project site.
- (f) If, upon the Director's review of the SWPPP (or any modification to the SWPPP) and any site inspection that the Director may conduct, the Director determines that the SWPPP does not comply with the requirements of the Construction General Permit, any individual NPDES or TPDES permit issued for storm water discharge from the construction site, or any additional requirement imposed by or under this Article, the Director may issue an order prohibiting the commencement, or the continuation, of any construction activity at the site. Also, if at any time the Director determines that the SWPPP is not being fully implemented, the Director may similarly issue an order prohibiting the continuation of any construction activity at the site.
- (g) Upon review of the SWPPP and any site inspection that is conducted, if at any time the Director determines that the SWPPP is not being fully implemented the Director may suspend or deny approval of any building permit, early grading release, 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 NPDES or TPDES permit issued for storm water discharge from the construction site, or any additional requirement imposed by or under this Article.
- (h) All Owners, developers, 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 and the Texas Pollutant Discharge Elimination System (TPDES) permit that authorizes the storm water discharges associated with land disturbing activity from the construction site identified as part of this certification, with the Storm Water Management Ordinance of the City of Allen, and with those provisions of the Storm Water Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."

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

(i) The SWPPP, with the Licensed Professional Engineer's signature, seal, and date affixed, and the certifications of Owners, developers, contractors and subcontractors required by this Article, 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.

(j) The Operator shall make a copy of the SWPPP and any modification thereto available to the EPA, State Inspectors, Director and any other authorized City personnel at the construction site upon request.

(k) The Director may, but is not obligated to notify the Operator at any time that the SWPPP does not meet the requirements of the Construction General Permit, any applicable individual NPDES or TPDES permit issued for storm water 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 this Article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Compliance with permits issued by other agencies shall be the sole responsibility of the Operator. Within seven calendar days of such notification from the Director (or as otherwise provided by the Director), the Operator shall make the required changes to the SWPPP and shall submit to the Director a written certification that the requested modifications have been made and sent to the appropriate state and federal authorities.

(l) The Operator shall modify the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in storm water discharges associated with construction activity.

(m) The SWPPP shall be modified by the Operator to identify any new contractor and/or subcontractor that will implement a measure in the SWPPP.

(n) All modifications to the SWPPP shall be signed, dated, and sealed by a Licensed Professional Engineer or other professional certified in a discipline that includes erosion and sediment control principles appropriate for the site, then submitted to the Director within seven calendar days of a change, determination of ineffectiveness, either by the City or the operator, or effective date of changes in contractor and/or subcontractor.

(o) The Operator shall follow all state and federal guidelines as shown in the TPDES and NPDES when any changes are made to the SWPPP.

(p) 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 fourteen calendar days and within twenty-four hours of the end of the storm that is one half (1/2) inches or greater of rain. 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.

(q) Construction site inspections performed by City personnel shall not relieve the requirements of the Operator to perform the Operator's own inspections in accordance with subsection (q) above.

(r) Based on results of the inspections required by this Article that identify a pollution protection issue, the site description and/or the pollution prevention measures identified in the SWPPP shall be modified as appropriate, but in no case later than seven (7) calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven (7) calendar days following the inspection. When requested, all modifications to the SWPPP shall be submitted to the Director within seven (7) calendar days of the date of inspection, but in all cases, revisions to the SWPPP shall be kept in a central location available for inspection within one (1) hour after the request by the Director.

(s) A written report summarizing the scope of any inspection required by this Article, and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with this Article shall be made and retained by the Operator as part of the SWPPP for at least three years after the date that the site is finally stabilized. This 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 or TPDES permit, and this Article. The report shall be certified and signed by the person responsible for making the report and consistent with the signing requirements of the permit.

(t) The Operator shall retain copies of any SWPPP and all reports required by this Article or by the NPDES or TPDES permit for the site, and records of all data used to complete the Notice of Intent (NOI), for a period of at least three years from the date that the site is finally stabilized.

(u) Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this Article and by the NPDES or TPDES permit are eliminated, or where the Operator of all storm water discharges at a facility changes, the Operator of the construction site shall submit to the Director, and to any other responsible City department personnel, a Notice of Termination (NOT) that includes the information required by the Construction General Permit administered by the TCEQ.

#### **Sec. 6-183. Submission of NOI.**

(a) Any person subject to a construction activity NPDES or TPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form reasonably acceptable to the Director prior to the allowances of discharges to the MS4.

(b) A copy of any NOI required by the EPA or TCEQ shall be delivered to the Director either in person or by mailing it to:

Notice of Intent to Discharge Storm Water  
Attn: Engineering Director

**Sec. 6-184. to Sec. 6-185. (Reserved)**

**DIVISION 3. STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY**

**Sec. 6-186. General Requirements.**

For regulations relating to Storm Water Discharges from an Industrial Activity, the Operator shall follow the guidelines set forth in the Industrial General Permit TXR050000, latest edition and revisions thereof published by TCEQ.

**Sec. 6-187. to 6-190. (Reserved)**

**DIVISION 4. POST-CONSTRUCTION RUNOFF CONTROL**

**Sec. 6-191. Findings of Fact.**

- (a) It is hereby determined that:
  - (i) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition.
  - (ii) Storm water runoff contributes to increased quantities of water-borne pollutants.
  - (iii) Storm water runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of storm water runoff from development sites.
- (b) The City establishes this set of water quality and quantity policies applicable to all surface waters in the City to provide reasonable guidance for the regulation of storm water runoff for the purpose of protecting local water resources from degradation.
- (c) It is determined that the regulation of storm water runoff discharges from land development projects and other construction activities in order to control and minimize increases in storm water runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with storm water runoff is in the public interest and will prevent threats to public health and safety.

**Sec. 6-192. Purpose.**

The purpose of this Division is to establish minimum storm water management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the City. This Division seeks to meet that purpose through the following objectives:

- (a) To minimize increases in storm water runoff from any development or redevelopment in order to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels;
- (b) To minimize the total annual volume of surface water runoff which flows from any specific site during and following development or redevelopment to not exceed the pre-development hydrologic conditions to the maximum extent practicable;

- (c) To accommodate new development and redevelopment projects in a manner that protects public safety, groundwater and surface water quality and aquatic living resources and their habitats;
- (d) To employ permanent non-structural and structural Best Management Practices (BMPs) to protect water quality thereby raising public awareness to storm water quality related issues;
- (e) To remove and/or treat storm water pollutants prior to discharge to ground and surface waters throughout the city;
- (f) To ensure the long-term operation and maintenance of all permanent storm water quality features; and
- (g) To reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, to the waters of the state through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to the public.

**Sec. 6-193. Applicability.**

This Division shall be applicable to all land development or redevelopment applications for both small and large construction activities, as defined by the TCEQ, unless eligible for an exemption or granted a waiver by the Director.

**Sec. 6-194. Drainage Design Manual Development.**

- (a) The City may provide additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this Division and may provide such information in the form of a Drainage Design Manual.
- (b) The Drainage Design Manual may be amended from time to time based on improvements in engineering, science, monitoring and local maintenance experience. Storm water treatment practices that are designed and constructed in accordance with these design criteria will be presumed to meet the minimum water quality performance standards.

**Sec. 6-195. Withholding of Permits.**

No owner or operator shall be issued any building, grading or other land development permits that are required for land disturbance activities without first satisfying the requirements of this Division prior to commencement of the proposed activity.

**Sec. 6-196. General Criteria for Post-Construction Runoff Control.**

- (a) All applicable land development sites shall be designed according to the specific performance criteria outlined in the City Drainage Design Manual or in conformance with a plan designed by an Engineer Licensed in the State of Texas, approved by the Director.
- (b) Prior to design, applicants are required to consult with the Director to determine if they are subject to additional post-construction storm water design requirements.

**Sec. 6-197. Minimum Control Requirements.**

All storm water management practices shall be designed so that the specific storm frequency storage volumes (e.g., water quality, channel protection, 10 year, 100 year) as identified in the current Drainage Design Manual are met, unless the Director grants a waiver or the Owner is exempt from such requirements. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control

requirements, the Director may impose any additional requirements deemed necessary to control the volume, timing, and rate of runoff.

**Sec. 6-198. Site Design Feasibility.**

Storm water management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

- (a) topography;
- (b) total maximum drainage area;
- (c) depth to water table;
- (d) soils;
- (e) slopes; and
- (f) terrain.

Applicants shall consult the Drainage Design Manual for guidance on the factors that determine site design feasibility when selecting a storm water management practice.

**Sec. 6-199. Conveyance Issues.**

All storm water management practices shall be designed to convey storm water and allow for maximum removal of pollutants and reduction in flow velocities, which shall include, but are not be limited to:

- (a) use of Structural and Non-Structural Best Management Practices (BMPs) and controls;
- (b) maximizing of path flow distance from inflow points to outflow points;
- (c) protection of inlet and outfall structures; and
- (d) elimination of erosive flow velocities.

**Sec. 6-200. Maintenance Agreements.**

All storm water management and/or treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the storm water practices, and to perform routine maintenance as necessary to ensure proper functioning of the storm water practice.

**Sec. 6-201. Structural Storm Water Practices.**

Owners are required by the City to implement structural measures to reduce runoff volumes and velocities at sites where downstream infrastructure is insufficient to accommodate developed flows. The following methods shall be considered appropriate for consideration as Structural Storm Water Practices:

- (a) swales and channels;
- (b) culverts, inlets and pipes;

- (c) detention;
- (d) energy dissipaters;
- (e) infiltration trenches;
- (f) storm water ponds;
- (g) porous surfaces; and
- (h) re-use (rain harvesting, etc.).

**Sec. 6-202. Use of Other or New Storm Water Practices.**

- (a) New and innovative technologies shall be evaluated and are encouraged for use providing that there is sufficient documentation as to their effectiveness and reliability.
- (b) Alternately, new structural storm water practices will not be accepted for inclusion in the City until independent performance data shows that the structural control conforms to local and/or state criteria for treatment, conveyance, maintenance and environmental impact.

**Sec. 6-203. Landscaping and Stabilization Requirements.**

- (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten (10) calendar days from substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:
  - (i) Reseeding must be done with a perennial, non-winter season cover crop accompanied by placement of matting or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
  - (ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of matting, mulch or an equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
  - (iii) Any area of revegetation must exhibit survival of a minimum of seventy percent (70%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy percent (70%) survival for one (1) year is achieved.
- (b) Upon instruction from the Director, a landscaping plan prepared by a Texas registered Landscape Architect shall be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. The landscaping plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. The landscaping plan, if required, must be approved by the Director prior to land disturbing activities.

**Sec. 6-204. Privately-Owned Erosion Control Requirements**

- (a) Storm Water System Responsible Party

(i) For privately-owned storm water drainage systems and/or water quality devices used for residential or commercial areas, the developer shall be responsible for all of the maintenance and repair of such storm water drainage systems and/or water quality devices serving that residential or commercial area until the developer or owner no longer has an ownership interest in any property served by the storm water drainage system and/or water quality device.

(ii) Once a homeowners' association (HOA) is organized and becomes active for a residential area served by a storm water drainage system and/or water quality device, the homeowners' association shall be responsible for the maintenance and repair of the storm water drainage system and/or water quality device. In the event there is no active homeowners' association or the homeowners' association fails to maintain the privately-owned storm water drainage system and/or water quality device, then the City may, but is not required, to maintain and repair the system and/or device.

(iii) Maintenance of a storm drainage system and/or water quality device shall include such items, but not be limited to:

- (A) mowing of tall weeds and grass;
- (B) regular and routine removal of floatables and debris;
- (C) dredging of silt and removal off-site;
- (D) correcting failures of inlet or outlet control structures;
- (E) implementation of erosion mitigation measures;
- (F) repair and maintenance of aeration equipment; and
- (G) maintaining optimal operation of underground and above ground detention.

(b) Disclosure of HOA Information to the MS4

(i) Upon the organization and formation of a homeowners' association, the HOA should provide updated contact information to the City for compliance and reporting communications. The minimum information to be provided by the HOA to the City includes:

- (A) name of subdivision and homeowners' association;
- (B) name, address, telephone number and email address of any management company involved with activities related to the HOA (if applicable);
- (C) name, address, telephone number and email address of a direct contact person representing or authorized to act on behalf of the HOA;
- (D) date of formation of the HOA;
- (E) current listing of storm water drainage structures and/or water quality devices over which the homeowner's association has control; and
- (F) dates when any changes were made to the HOA board, structure or the storm drainage system and/or water quality device over which the HOA has control.

(ii) Any changes to the contact information regarding the HOA must be reported immediately to the City Planning Department.

(iii) The HOA is required to annually contact with the City Planning Department to ensure that all information is up to date.

(c) **Authorization to Inspect, Adopt and Impose Best Management Practices**

(i) The City has the authority to conduct storm water inspections to require implementation of Best Management Practices where appropriate.

(ii) The selection, application and maintenance of BMPs must be sufficient to prevent or reduce the likelihood of pollutants entering the receiving storm drainage system.

(iii) The City may adopt and impose requirements identifying specific BMPs for any activity, operation or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation or owning or operating such facility shall implement and maintain BMPs at the person's own expense.

**Sec. 6-205. Failure to Maintain Practices.**

(a) In the event that a storm water management facility, storm water drainage system and/or water quality device is deemed by the City to be in need of maintenance or repair or is determined a danger to public safety or public health, the City shall notify the responsible party in writing for maintenance of the storm water management facility. The responsible person shall have thirty (30) days after receipt of notice to effect maintenance and repair of the facility in an approved manner.

(b) If a responsible party fails or refuses to meet the storm water facility maintenance requirements of this Article, the Director, after reasonable notice, may cause the necessary work to be done to correct a violation of the design standards or maintenance and assess the responsible party for all incurred costs and expenses.

**Sec. 6-206. to 6-210. (Reserved)**

**DIVISION 5. COMPLIANCE EXAMINATION AND NOTIFICATION**

**Sec. 6-211. Right of Entry: Inspection and Sampling.**

(a) The Director shall have the right to enter the premises of any person discharging storm water to the municipal separate storm sewer system 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 permits, limitations, or requirements.

(b) Inspection programs may be established on any reasonable basis, including but not limited to:

(i) routine inspections;

(ii) random inspections;

(iii) inspections based upon complaints received by the City;

(iv) inspections based on other notices of possible violations;

- (v) inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;
  - (vi) inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants;
  - (vii) inspections of discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES and TPDES storm water permits; and
  - (viii) joint inspections with other agencies inspecting under environmental or safety laws.
- (c) Inspections may include, but are not limited to:
- (i) reviewing maintenance and repair records;
  - (ii) sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and
  - (iii) evaluating the condition of drainage control facilities and other storm water treatment practices.
- (d) Dischargers shall allow the 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.
- (e) Dischargers shall make available to the Director, upon request, any SWPPP's, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, Notices of Intent, and any other records, reports, and other documents related to compliance with this Article and with any state or federal discharge permit.
- (f) 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 Director will be permitted to enter without delay for the purposes of performing his/her responsibilities.
- (g) The Director shall have the right to install 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.
- (h) The 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 storm water discharges, and may specify the frequency and parameters of any such required monitoring.
- (i) The Director may require the discharger to install monitoring equipment as necessary at the discharger's expense. Sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (j) 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 Director and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
- (k) Unreasonable delays in allowing the Director access to the discharger's premises shall be a violation of this Article.

**Sec. 6-212. Inspection or Search Warrants.**

If the Director has been refused access to any part of the premises from which storm water is discharged, and such person has probable cause to believe that there is 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, then the Director may seek issuance of an inspection or search warrant from any court of competent jurisdiction.

**Sec. 6-213. Notification of Spills.**

(a) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Director in person or by phone or facsimile no later than the next business day. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence.

(b) Failure to provide notification of a release as provided above is a violation of this Article.

**Sec. 6-214. to 6-215. (Reserved)**

**DIVISION 6. REPORTS OF VIOLATION**

**Sec. 6-216. Citizen Reports of Violations.**

(a) All citizens are encouraged to report 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 to the Director.

(b) A written record of each citizen report to the City will be prepared and maintained in accordance with the City records retention policy. A copy of the City's record of the report will be furnished to the reporting citizen upon request. The Director will, upon request, inform the reporting citizen of any action taken by the City.

**Sec. 6-217. to 6-218. (Reserved)**

**DIVISION 7. ENFORCEMENT**

**Sec. 6-219. Enforcement Authority.**

(a) The enforcement authority for the provisions of this Article shall be the City Manager.

**Sec. 6-220. Violations.**

(a) It shall be unlawful for any person to violate any provision or fail to comply with any provision of this Article. Any person who has violated or continues to violate a provision of this Article, may be subject to the enforcement actions outlined in this Article or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In the event a violation constitutes an immediate danger to public health or public safety, the City is authorized to enter upon the private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property.

**Sec. 6-221. Notice of Violation and Compliance Orders.**

(a) When the Director finds that a person has violated, continues to violate, or threatens to violate, any provision of this Article, or any order issued hereunder, the Director may serve upon that person a written notice of violation, 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.

(b) The notice of violation shall contain:

(i) the name and address of the alleged violator;

(ii) the address (when available) or a description of the building, structure or land at which the violation is occurring, or has occurred;

(iii) a statement specifying the nature of the violation;

(iv) a description of the remedial measures necessary to bring the development activity into compliance with this Article and a time schedule for the completion of such remedial action;

(v) a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(vi) a statement that the determination of violation may be appealed by filing a written notice of appeal within seven (7) days of service of notice of violation; and

(vii) a statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(c) The Director may issue the violator a Compliance Order directing that the violator come into compliance within a specified time, prior to commencement or continuance of operation, or immediately. The order may also 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.

(d) Investigation and/or resolution of the matter in response to a Notice of Violation or Compliance Order in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Notice or Order.

(e) Nothing in this subsection shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action upon issuance of a Notice of Violation or Compliance Order.

**Sec. 6-222. Remediation, Abatement, and Restoration Orders.**

(a) When the 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, or the Waters of the United States, the 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, or the Waters of the United States, and/or to restore any part of the MS4, or the waters of the United States.

- (b) Such remedial, abatement, and restoration action may include, but not be limited to:
  - (i) Monitoring assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action;
  - (ii) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;
  - (iii) Prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation, and/or;
  - (iv) Restoration or replacement of City property or natural resources damaged by the violation.
- (c) 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.
- (d) An order issued under this Subsection does not relieve the violator of liability for any violation, including any continuing violation.
- (e) 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.

#### **Sec. 6-223. Emergency Cease and Desist Orders.**

- (a) When the Director finds that any person has violated, continues to violate, or threatens 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), or threatened 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 Director may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:
  - (i) immediately comply with all requirements of this Article; and
  - (ii) take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.
- (b) Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge.
- (c) In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services.
- (d) The Director may allow the person to commence or recommence its discharge when it has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article.

(e) 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 Director within ten (10) calendar days of receipt of the emergency order.

(f) 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.

**Sec. 6-224. Stop Work Orders or “Red Tags”.**

(a) Whenever the Director finds that any Operator of a construction site has violated, threatens to violate, or continues to violate, any provision of this Article, or any order issued hereunder, the Director may issue a Stop Work Order or “Red Tag” to the Operator, and require that a copy of the Stop Work Order be posted at the construction site and distributed to all City Departments and divisions whose decisions affect any activity at the site.

(b) Unless express written exception is made by the Director, the Stop Work Order or “Red Tag” shall prohibit any further construction activity, or any commencement of construction activity, at the site and shall bar any further inspection or approval by the City associated with a building permit, early grading release, or any other City approval necessary to commence or continue construction or to assume occupancy at the site.

(c) Issuance of a Stop Work Order or “Red Tag” shall not be a bar against, or a prerequisite for, taking any other action against the violator.

**Sec. 6-225. Appeal.**

Any person may appeal the decision of the Director to the City Manager. The decision of the City Manger is final.

**Sec. 6-226. Judicial Enforcement.**

(a) Injunctive Relief

(i) Whenever it appears that a person has violated, or continues to violate, any provision of this Article or order issued hereunder, the City may seek the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance by that person of any requirement imposed by this Article or any order issued hereunder.

(ii) The Director may also seek other action as appropriate for legal and/or equitable relief, including a requirement for a violator to conduct environmental remediation, abatement, or restoration.

(iii) Action for injunctive relief shall not be a bar against, or prerequisite for, taking any other action against a violator.

(b) Civil Remedies

(i) Any person who has violated, or continues to violate, any provision of this Article, or any order issued hereunder, shall be liable to the City for a maximum civil penalty of not more than \$2,000 per violation, per day.

(ii) The City may file suit in the state district court to recover all penalties, reasonable attorneys’ fees, court costs, and other expenses associated with enforcement activities,

including sampling and monitoring expenses, the cost of any actual damages incurred by the City, and any costs of remediation, abatement, and restoration incurred by the City, as well as civil penalties, in any court of competent jurisdiction.

(iii) In determining the amount of civil liability, 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, and any other factor as justice requires.

(iv) A suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a violator.

(c) Criminal Prosecution

(i) Any person who knowingly violates any provision of this Article, or any order issued hereunder, shall, upon conviction be guilty of a misdemeanor, punishable by a fine of not more than \$2,000 per violation. Each day a violation continues to exist shall be considered a separate offense.

(ii) Any person who knowingly introduced any substance into the MS4 or waters of the United States which causes personal injury or property damage shall, upon conviction in the Municipal Court, be guilty of a misdemeanor and be subject to a penalty of not more than \$2,000 per violation. Each day a violation continues to exist shall be considered a separate offense. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State Law.

(iii) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Article, or any order issued hereunder, or who has falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this Article shall, upon conviction, be subject to a fine of not more than \$2,000 per violation. Each day a violation continues to exist shall be considered a separate offense.

(d) Civil Suit Under the Texas Water Code

Whenever it appears that a violation or threat of violation of any provision of the Texas Water Code, or any rule, permit, or order of the TCEQ, has occurred or is occurring within the jurisdiction of the City, exclusive of its extraterritorial jurisdiction, the City, in the same manner as the TCEQ, may have a suit instituted in a state district court through its City Attorney for the injunctive relief or civil penalties or both authorized by the Texas Water Code, against the person who committed or is committing or threatening to commit the violation.

(e) Remedies Nonexclusive

(i) The remedies provided for in this Article are not exclusive of any other remedies that the City may have under local, state or federal law.

(ii) The City may take any, all, or any combination of these actions against a violator.

(iii) The City is empowered to take more than one enforcement action against any violator.

- (iv) These actions may be taken concurrently.

**Sec. 6-227. Supplemental Enforcement Actions.**

(a) Performance and Maintenance Bonds

(i) The Director may, by written notice, order any Owner or Operator of a source of storm water discharge associated with construction or industrial activity to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Article, any order issued hereunder, any required Best Management Practice, and/or any Storm Water Pollution Prevention Plan provision, and/or to achieve final stabilization of the site.

(ii) The Director may deny approval of any City permit or approval necessary to commence or continue construction or any industrial activity at a site, or to assume occupancy, until such a performance or maintenance bond has been filed.

(b) Liability Insurance

The Director may, by written notice, order any Owner or Operator of a source of storm water discharge associated with construction or industrial activity to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value determined by the 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. Any insurance obtained by an Owner or Operator must name the City as additionally insured.

(c) Water Supply Severance

(i) Whenever a person has violated or continues to violate any provision of this Article, or any order issued hereunder, the City may terminate or suspend water, sewer, or other municipal services to the violator and/or the site of such violation.

(ii) Service will be resumed at the violator's expense after such person has satisfactorily demonstrated to the Director the ability to comply with this Article.

**Sec. 6-228. to 6-230. (Reserved)**

**DIVISION 8. MISCELLANEOUS PROVISIONS**

**Sec. 6-231. Charges and Fees.**

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

(i) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing discharges and reviewing monitoring reports submitted by dischargers;

(ii) Fees for spill and release reports and responding and remediating spills and releases of oil, hazardous and extremely hazardous substances, and other pollutants, and;

(iii) Other fees as the City may deem necessary to carry out the requirements contained in this Article.

(b) 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.

**Sec. 6-232. Effective Date.**

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

**SECTION 2.** All ordinances of the City in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect.

**SECTION 3.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**SECTION 4.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 5.** Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

**SECTION 6.** This ordinance shall take effect immediately from and after its passage and publication of the caption as the law and charter may require.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13<sup>TH</sup> DAY OF JULY, 2010.**

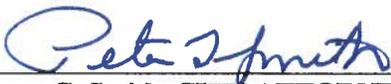
**APPROVED:**



Stephen Terrell, MAYOR

**APPROVED AS TO FORM:**

**ATTEST:**



Peter G. Smith, CITY ATTORNEY  
(43720)



Shelley B. George, CITY SECRETARY

**ORDINANCE NO. 3843**

**AN ORDINANCE OF THE CITY OF RICHARDSON, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 23, TO ADD ARTICLE VIII MUNICIPAL DRAINAGE UTILITY SYSTEM, TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM; PROVIDING FOR DRAINAGE SERVICE, BILLING, EXEMPTIONS, DRAINAGE CHARGES AND APPEALS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A CRIMINAL PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Richardson, Texas, has investigated and determined that it would be advantageous and beneficial to the citizens of the City to promote the public health, safety and welfare of the citizens to adopt a Municipal Drainage Utility System; and

**WHEREAS**, the City Council further investigated and determined that it would be in the best interest of the citizens to adopt the Municipal Drainage Utility Systems Act as set forth in Chapter 552, Subchapter C, Texas Local Government Code, as amended ("Act"); and

**WHEREAS**, the City Council hereby adopts the Act and incorporates it herein in its entirety for all purposes; and

**WHEREAS**, the City Council finds that the drainage of the City is a public utility within the meaning of the Act; and

**WHEREAS**, the City Council further finds that the City will establish a schedule of drainage charges against all real property in the proposed service area(s) which included the entire City subject to charges under this Ordinance; and

**WHEREAS**, the City Council further finds that the City will provide drainage for all real property in the proposed service area(s) on payment of drainage charges, except real property exempted under the Act or pursuant to this Ordinance; and

**WHEREAS**, the City Council further finds that the City will offer drainage service on nondiscriminatory, reasonable and equitable terms; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHARDSON, TEXAS:**

**SECTION 1.** That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

**SECTION 2.** That Chapter 23 of the Code of Ordinances of the City of Richardson, Texas, is amended by adding Article VIII, Municipal Drainage Utility System, to read as follows:

**“ARTICLE VIII. Municipal Drainage Utility System**

**Sec. 23-305. Municipal Drainage Utility System Established.**

The Municipal Drainage Utility Systems Act, Chapter 552, Subchapter C, Texas Local Government Code, as amended (the "Act"), is hereby adopted and shall be fully implemented as provided by the Act and by the City Council; and the drainage of the City is hereby found to be a public utility within the meaning of the Act.

**Sec. 23-306. Drainage Service Provided.**

The City will provide storm water drainage for all real property within its boundaries upon payment of the determined drainage charges, as defined in the Act, and excluding property exempt under the Act and certain exempted real property by the City, and that the fees, assessments, and charges will be based on nondiscriminatory, reasonable and equitable terms. The drainage charges established herein shall be for all non exempt benefitted property as defined in the Act within the City drainage system

**Sec. 23-307. Billing for Drainage Service.**

The City is hereby authorized to bill the drainage charges incurred as a result of the adoption of the Act and through the establishment of the municipal drainage utility system. The drainage charge shall be separately identified from other public utility billings. Revenues generated through the drainage charges authorized herein shall be classified as committed resources according to the City Financial Policies, as amended. Drainage charges may only be expended for the costs of service as defined by the Act.

**Sec. 23-308. Authority to Levy Drainage Charges.**

The City may levy a schedule of drainage charges upon satisfaction of the procedural requirements provided in the Act and this Article. Prior to the levy of any drainage charges, the City Council shall conduct a public hearing on the drainage charges pursuant to the Act. Prior to adoption of this Article the City Council found and determined: that the City will establish a schedule of drainage charges against all real property in the proposed area which includes the entire City subject to the charges under the Act; the City will provide drainage for all real property in the proposed service area on payment of the drainage charges, except real property exempt under the Act; and the City will offer drainage service on nondiscriminatory, reasonable, and equitable terms.

**Sec. 23-309. Exemptions Authorized.**

The City is authorized to exempt certain property, entities or persons from all ordinances, resolutions, and rules which the City may adopt from time to time in connection with the adoption of the Act and the establishment of its municipal drainage utility system. Any exemptions to the drainage charges established herein other than the exemptions required by the Act shall be set forth in the drainage charge schedule.

**Sec. 23-310. Charges.**

(a) The City Council shall, following the adoption of this Article, establish a drainage charge schedule, by resolution of the City Council, from time to time, for charges which shall be collected through the City's bill for public utilities pursuant to the Act and other applicable law. There shall be a drainage charge on each monthly public utility statement for the City drainage system as set forth in the drainage charge schedule. The City Manager, or designee, is authorized to collect such charges in a manner consistent with the City Charter, the Act and this Article. The drainage charges shall be a separate line item on the public utility statement, and shall be clearly identified as a separate charge. Except, as otherwise provided herein, the billing, charges and collection procedures shall be consistent with City collection procedures for the water and sewer services.

(b) The drainage charges established pursuant to this Article will apply to the accounts maintained by the City for public utility services.

(c) All billings, credits, exemptions and other procedures relating to drainage charges established pursuant to this Article shall be subject to the provisions of the Act and other applicable law.

(d) A deposit for the drainage services as a precondition to accepting surface flow from benefited property into the City drainage utility system shall not be required. All real property of the City will be provided with drainage utility system service on timely payment of drainage charges established herein.

**Sec. 23-311. Appeals.**

(a) Billing and payment disputes for administrative issues relating to the drainage charges shall be subject to appeals procedures used by the City for other public utility billing disputes. A person or entity that owns or occupies a benefitted property may appeal the drainage charges established herein pursuant to this procedure set forth in this section.

(b) Appeals for the following reasons shall be directed to the Director of Finance for evaluation and determination. An appeal shall be in writing and submitted to the Director of Finance within thirty (30) days after the public utility billing statement containing the matter to be disputed. During all periods of appeal the person or entity who owns or occupies the benefitted property and/or the account holder shall be responsible for payment of the charges in full:

- (1) exempt property has been assessed a drainage charge;
- (2) drainage charge for an individual property is assessed on more than one public utility account; or
- (3) drainage charge is assessed to individual property outside the City's jurisdictional area.

(c) The Director of Finance shall render a written decision on such appeals within thirty (30) days after receiving a timely written notice of appeal from the person or entity who owns or occupies the benefitted property and/or the account holder. The Director of Finance shall deliver a copy of the appeal decision to the person or entity who owns or occupies the benefitted property and/or the account holder by US mail to the address of the landowner/account holder according to the most recent records in the possession of the City.

(d) Appeals for claims that the drainage charge for an individual property is based on an incorrect determination of the property's contribution to the drainage utility system, as established in the City drainage charge schedule shall be directed to the Director of Engineering for evaluation and determination. An appeal pursuant to this section 23-311 (d) shall be in writing and submitted to the Director of Engineering within thirty (30) days after the public utility billing statement containing the matter to be disputed. During all periods of appeal the person or entity who owns or occupies the benefitted property and/or the account holder shall be responsible for payment of the charges in full.

(e) Any person or entity who owns or occupies the benefitted property and/or the account holder who disagrees with the decision of the Director of Finance or the Director of Engineering, as the case may be, may appeal such decision to the City Manager in writing within ten (10) days after receipt of the decision of the Director of Finance or the Director of Engineering, as the case may be. The decision of the City Manager shall render a written decision within thirty (30) days after receipt of a timely appeal. The decision of the City Manager shall be final.

**Sec. 23-312. Credits.**

(a) A property owner may petition to the City to reduce the drainage charge fee for an individual property to account for on-site storm water management controls that reduce the property's impact to the drainage utility system.

(b) The petition will be evaluated and the fee adjustment decision determined by the Director of Engineering. The Director of Engineering's evaluation and determination shall be based on nondiscriminatory, reasonable, and equitable terms and shall be based solely on storm water-related factors.

**Sec. 23-313. Penalties; Enforcement.**

Failure to pay the drainage charges promptly when due shall subject such user to discontinuance of any public utility services provided by the City, in accordance with the procedures adopted by the city for discontinuance of any City public utility service including water and/or sewer service and other applicable laws.”

**SECTION 3.** That all provisions of the ordinances of the City of Richardson in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Richardson not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 4.** That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 5.** That an offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 6.** That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Richardson as heretofore amended and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed and constitute a separate offense.

**SECTION 7.** That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED** by the City Council of the City of Richardson, Texas, on the 28  
day of November, 2011.

APPROVED:

*J. J. Janssen*  
MAYOR

APPROVED AS TO FORM:

*Peter H. Smith*  
CITY ATTORNEY  
(PGS:10-20-11 TM 51850)

CORRECTLY ENROLLED:

*Janet Schmidt*  
CITY SECRETARY