

**ORDINANCE NO. 05-06-12**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALAMO, TITLE 8, PUBLIC UTILITIES, ADDING CHAPTER 7, WATER POLLUTION PREVENTION; BY ADOPTING AS SET OUT THEREIN; PROVIDING FOR EFFECTIVE DATES; PROVIDING FOR PUBLICATION PROVIDING FOR SEVERABILITY CLAUSE AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF**

**WHEREAS**, the City of Alamo, a home-rule city of the State of Texas, may adopt and enforce ordinances necessary to protect health, life property and the general welfare of the City and its residents and visitors; and

**WHEREAS**, pursuant to the Clean Water Act and Texas Pollution Discharge Elimination System General Permit TXR40289, as amended, the City of Alamo is required to develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants into the City's streets, gutters, ditches, and storm drains, and to the Surface Water in the State, the Waters of the United States, to the maximum extent practicable; and

**WHEREAS**, the City's storm water management program must include six minimum control measures: (1) public education and outreach on storm water impacts; (2) public involvement and participation; (3) illicit discharge detection and elimination; (4) construction site storm water runoff control; (5) post-construction storm water management in new development and redevelopment; and (6) pollution prevention and good housekeeping for municipal operations; and

**WHEREAS**, implementation of best management practices consistent with the provisions of the City's storm water management program constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable"; and

**WHEREAS**, the City of Alamo and its planning area are located within the watershed of the Arroyo Colorado, that is, all storm water run-off from the City of Alamo and its planning area flows in to the Arroyo Colorado; and the Arroyo Colorado flows into the Laguna Madre; and

**WHEREAS**, the Texas Commission on Environmental Quality (TCEQ) has determined that the Arroyo Colorado is an impaired water body and does not meet its aquatic life use primarily due to low dissolved oxygen, but also due to high levels of nutrients and sedimentation and suspended solids; and

**WHEREAS**, TCEQ in 2003 estimated that ninety percent (90%) reduction in nitrogen, phosphorous, biological oxygen demanding substances and sediment will be necessary for the Arroyo Colorado to meet aquatic life water quality standards; and

**WHEREAS**, the City has exercised leadership in reducing the amount of point-source pollution entering the Arroyo Colorado from its wastewater plant; and

**WHEREAS**, other sources of pollution that may contaminate storm water include erosion of disturbed land at construction sites, the deliberate or inadvertent discharge of material or substances other than storm water directly or indirectly into storm drains, and storm water run-off from rooftops, parking lots, and yards and lawns treated with excess fertilizer and pesticides; and

**WHEREAS**, natural materials such as leaves and grass clippings are beneficial to gardens and soil as mulch and a soil amenity but constitute pollution when they enter waterways because the decomposition of these materials consumes oxygen in the water that is needed by fish; and

**WHEREAS**, improper management of storm water and control of erosion reduces capacity of the City's drainage infrastructure and causes additional maintenance needs and expenses; and

**WHEREAS**, the City of Alamo recognizes that protecting and improving water quality in the Arroyo Colorado will contribute to an improved quality of life and the general welfare of the residents of Alamo.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS THAT:**

SECTION I. The Code of Ordinances of the City of Alamo, Title 8-Utilities, Chapter 7, (Water Pollution Prevention) is hereby amended to read as follows:

8-7-1:           **Purpose:** The purpose of this Ordinance is to control pollution and prevent pollute water discharge into the Municipal Separate Storm Sewer System (MS4) and/or water bodies from residential, business, and commercial establishments, and to preserve the natural flow of water and waterways within the City of Alamo. The provisions in this Ordinance are intended to provide a natural environment, to control non-storm water runoff to the MS4 at its source, to minimize the adverse effects of water pollution and to preserve our drinking water supplies. It is also the purpose of this Ordinance to prevent wash water discharges into the MS4. The resulting discharges pollute storm water flows in ditches, streams, and other waterways, and thereby create an unhealthy situation, degrade water quality, cause loss of aquatic life and pose a threat to public health and safety.

8-7-2:           **Scope and intent:** This Ordinance sets forth guidelines, standard practices, rules and regulations to control polluted storm water runoff and non-storm water discharges from residential, commercial, and industrial establishments.

8-7-3:           **Definitions:** For the purposes of this Ordinance only, the following terms, words and phrases; and their derivations, shall have the meanings set forth below, except where the context clearly indicates a different meaning:

**Best Management Practices (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. BMP also includes treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**BOD (Biochemical Oxygen Demand)** means the quantity of oxygen by weight, expressed in mg/l, utilized in the biological oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees centigrade.

**Chlorinated Discharge** means any discharge having a quantity of chloride (free or total) that exceeds the Surface Water Quality Standard of the State of Texas.

**City** means the City of Alamo, Texas.

**Commercial Dumpster Washing** means the washing of commercial garbage or rubbish dumpsters and the immediate area around them in order to remove putrescible animal and vegetable waste material or other debris from said areas and dumpsters.

**Common Plan of Development or Sale** means a construction activity that is completed in separate stages or phases or in combination with other construction activities. A common plan of development or sale is identified by plats, blueprints, marketing plans, contracts, building permit applications, a public notice or hearing, zoning requests, or other similar documentation.

**Construction Activity (small)** means construction activities including clearing, grading, and excavating that result in land disturbance of one or more but less than five acres of land. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the large common plan will ultimately disturb one or more but less than five acres of land.

**Construction Activity (large)** means construction activities that result in land disturbance of five or more acres of land. Large construction activity also includes the disturbance of less than five acres of land area that is part of a common plan of development or sale that will ultimately disturb five or more acres of land.

**Construction Site Operator** means the person or persons associated with a small or large construction project that is either:

- (1) the person or persons that have operational control over construction plans and specifications including approval of revisions to the extent necessary to meet the requirements and conditions of TXR40289; or
- (2) the person or persons that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a storm water pollution prevention plan for the site.

**Composite** means a sample used to determine average loadings or concentrations of pollutants. A composite can be developed based on time or flow.

**Conveyance** means streets, curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for drainage or flood control or to otherwise transport storm water runoff.

**CWA** means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).

**Discharge** means any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.

**Discharge limits** means any limit on discharges set by Local, State or Federal governments. These limits may apply to quantity, rate, quality of discharge, and concentrations or any combination thereof. These are also called effluent/imitations.

**Discharger** means any person who causes, allows, permits, or is otherwise responsible for a discharge including, without limitation, any operator of a construction site or industrial facility.

**Do It Yourself (DIT) Used Oil** means used oil that is generated by a person who changes the person's own automotive oil.

**Environmental Protection Agency (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 the EPA or such successor agency.

**Excessive Water Runoff** means discharges deemed by the City to be significant contributors of pollutants to the MS4 or other surface waters.

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

**Final Stabilization** means where the following conditions are met:

(a) All soil disturbing activities have been completed and a uniform perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

(b) For individual lots in a residential construction site either:

- (i) the homebuilder completes final stabilization as specified in (a) above; or
- (ii) the homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and informs the homeowner of the need for , and benefits of, final stabilization.

(c) For construction activities on land and used for agricultural purposes (e.g. pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a surface water and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (a) above.

**Fueling/Vehicle Washing Area** means any commercial/public location where any type of motor vehicle or piece of heavy equipment is washed, waxed, cleaned or degreased in any manner or any location where any type of motor vehicle is fueled with petroleum products or any other type of fuel.

**Garbage** means animal and vegetable wastes and residue from preparation, cooking and dispensing of food; and from handling, processing, storage and sale of food products and produce.

**Ground Water Infiltration** means groundwater that enters the MS4 (including storm sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.

**Harmful/Hazardous Quantity** means the amount of any substance that will cause pollution of water under state and federal law.

**Hazardous Waste** means any material, substance, byproduct, spent, obsolete or used chemical or chemical compound which meets the standards for classification of a hazardous waste or acutely hazardous waste as those terms are defined in 40 CFR Part 261 et seq. and any appendices thereto.

**Household Hazardous Waste (HHW)** means any material generated in a household (including but not limited to single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer such as, but not limited to batteries, paint brushes, paint containers, except for the exclusion provided in 40 Code of federal Regulations (CFR) § 261.4 (b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

**Illegal Dumping** means the act of illegally placing any material in any location including but not limited to the MS4, waters of the State, water of the United States, or any locations other than the appropriate place of disposal whether the location is public or private.

**Illicit Connection** means any man made conveyance connecting an illicit discharge directly to a municipal separate storm sewer or MS4 or waters of the United States.

**Illicit Discharge** means any discharge to the MS4 that is not entirely composed of storm water, except discharges pursuant to TXR40289 or a separate authorization.

**Industrial Activities** means manufacturing, processing, material storage, and disposal areas and similar areas where storm water can contact industrial pollutants related to the industrial activity at an industrial facility described by the TPDES Multi-Sector General Permit, TXR40289, or by another TCEQ or TPDES permit.

**Industrial Waste** means liquids or other character of wastes resulting from any commercial, manufacturing or industrial operations or process, excluding normal domestic sanitary sewage unless it exceeds three hundred fifty (350) mg/BOD or three hundred fifty (350) ml/L total suspended solids, which water borne or liquid wastes enter the sewage system, or any portion thereof, of the city.

**Inlet** means an entrance into a ditch, storm sewer or other waterway.

**Land Disturbance (or Soil Disturbance)** means any activity which involves the physical movement or disturbance of earth material by mechanized means. This includes excavating, filling, stockpiling, clearance of vegetation, grading, compaction of soil, creation of borrow pits, or combination thereof. Land disturbance does not include plowing, seeding, planting, cultivating, or harvesting on a farm, including lands that have been lying fallow as part of a conventional rotational cycle. Land disturbance does not include routine maintenance performed to maintain the original line and grade, hydraulic capacity and purpose of a ditch, channel or other similar storm water conveyance. Land disturbance does not include routine grading of existing dirt roads, asphalt overlays of existing roads, routine clearing of existing right-of-ways or other similar maintenance activities.

**Landfill** means an area of land or excavation in which wastes are placed for permanent disposal, which is permitted or registered by the State of Texas, and which is not a land application unit, surface impoundment, injection well, or waste pile.

**Maximum Extent Practicable** means the technology-based discharge standard for MS4s to reduce pollutants in storm water discharges established by the Clean Water Act.

**Motor Vehicle Fluid** means any fluid used in any type of engine including but not limited to fuel, oil, transmission fluid, coolant, brake fluid, windshield-washing fluid, and power steering fluid.

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

**MS4 Operator** means for the purpose of this Ordinance, the City of Alamo.

**Non-Compliance** means any infraction of the revised Code of Civil and Criminal Ordinances of the City of Alamo, State regulations/laws or Federal regulations/laws.

**Non-point Source Pollution** means pollution contained in storm water runoff from ill defined, diffuse sources.

**Notify** means contacting the appropriate city official in writing in order to request permission to apply or reapply for a specified permit, or to make the official aware of an existing discharge or structure.

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

**Oil** means any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil sludge, oil refuse, and oil mixed with waste or any fraction thereof which is liquid at standard conditions of temperature and pressure.

**Oil Filter** means an integral part of an oil-flow system, the purpose of which is to remove contaminants from the flowing oil contained within the system.

**Oil Water Separator/Interceptor** means a device installed, usually at the entrance of an inlet drain, which removes oil and grease from water flows entering either the MS4 or sewer.

**Operator** means the person or persons who, either individually or in a group, meet the following two criteria: (1) they have operational control over the facility specifications (including the ability to make modifications in specifications) and (2) they have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

**Owner** means the person who owns a facility or part of a facility or his/her assignee.

**Oxygen Demanding Substance** means the chemical and/or microorganism-mediated oxidation of organic matter; and/or the bio oxidation of nitrogenous material; and/or chemical or biochemical oxidation of chemical reducing agents.

**Pavement Wash Water** means any water used to wash any debris, sediment, fluid, or putrescible matter from any paved area of a commercial or public facility.

**Permittee** means any person or entity to whom a permit is issued pursuant to this article and any authorized representative, agents or designee of such person or entity.

**Person or entity** means an individual, firm, co-partnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, agency or instrumentality of any government or Indian tribe, but such term does not include:

- (1) The United States Postal Service; or
- (2) For the purpose of 49 USC 5123 and 5124, any agency or instrumentality of the federal government.

**Petroleum Substance** means a crude oil or any refined or refined fraction or derivative of crude oil, which is liquid at standard conditions of temperature and pressure. A petroleum substance shall be limited to one or a combination of the substances or mixtures in the following list except for any listed substance regulated as a hazardous waste under the federal Solid Waste Disposal Act, Subtitle C, and (42 United States Code 56921, et seq.):

- (A) basic petroleum substances- crude oils, crude oil fractions, petroleum feed stocks, and petroleum fractions;
- (B) motor fuel- petroleum substance which is typically used for the operation of internal combustion engines (including stationary engines and engines used in transportation vehicles and marine vessels) and which is one of the following types of fuels; leaded or unleaded gasoline, aviation gasoline, Number 1 diesel fuel, Number 2 diesel fuel, and any grades of gasohol;
- (C) aviation gasoline- Grade 80, Grade 100, and Grade 100-LL;
- (D) aviation jet fuels- Jet A, Jet A-1, Jet B, JP-4, JP-5, and JP-8;
- (E) distillate fuel oils- Number 1-D, Number 1, Number 2-D, and Number 2;
- (F) residual fuel oils- Number 4-D, Number 4-light, Number 4, Number 5-light, Number 5 heavy, and Number 6;
- (G) gas turbine fuel oils- Grade O-CT, Grade 1-GT, Grade 2-GT, Grade 3-GT, and Grade 4-GT;
- (H) illuminating oils- kerosene, mineral seal oil, long time burning oils, 300 oil, and mineral colza oil;
- (I) solvents- Stoddard solvent, petroleum spirits, mineral spirits, petroleum ether, varnish makers'; and painters' naphthas, petroleum extender oils, and commercial hexane;
- (J) lubricants- automotive and industrial lubricants;
- (K) building materials- liquid asphalt and dust-laying oils;
- (L) insulating and weatherproofing materials- transformer oils and cable oils;
- (M) used oils- any oil or similar petroleum substance that has been refined from crude oil, used for its designed or intended purposes, and contaminated as a result of such use by physical or chemical impurities; and including spent motor vehicle and aircraft lubricating oils (e.g., compressor, turbine, bearing, hydraulic, metalworking, gear electrical, refrigerator oils, and spent industrial process oils.
- (N) any other petroleum- based material having physical and chemical properties similar to the previously listed materials.

**Petroleum Underground Storage Tanks (PUST)** means any underground storage tanks system that contains, has contained or will contain a petroleum substance, a mixture of two or more petroleum substances or a mixture of one or more petroleum substance with very small amounts of one or more hazardous substances. In order for PUST system containing a mixture of petroleum substances with small amounts of hazardous substances to be classified as a PUST system, the hazardous substance shall be at such dilute concentration that the overall release detectability, effectiveness of corrective action, toxicity of the basic petroleum substance is not altered to any significant degree.

**pH** means the logarithm to the base 10 of the reciprocal of the concentration in grams per liter of hydrogen ions; a measure of the acidity or alkalinity of a solution, expressed in standard units. The pH may range from 0 to 14, where 0 is the most acidic and 14 is the most basic. Examples of substances having a pH lower than 6.0 would muratic acid, sulfuric acid, and acetic acid. Examples of substances having a pH above 10.5 would be drain cleaner (sodium hydroxide), bleach and ammonia.

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

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

**Pollution** means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

**Pollution Prevention Measures** means prescribed measures to reduce pollutants in discharge through outfalls. These measures include but are not limited to treatment, pre-treatment, a best management practice or a method to reduce the pollution of projects classified as light construction and land disturbance activities.

**Polychlorinated Biphenyl (PCBs)** means a series of technical mixtures consisting of many isomers and compounds that vary from mobile oil liquids to white crystalline solids and hard con-crystalline resins. Technical products include but are not limited to Arochlor, Chlopen, Chlorextol, Chloro Biphenyl, Chloro-1, 1-Bipheyl, Chlorodiphenylene, Clophen, Kykanol, Fenclor, Inerteen, Kanechlor, Montar, Noflamol, PCB (DOT, USDA) Phenochlor, Pyranol, Santotherm, Sovol, and Therminol Fr-1. PCBs are confirmed carcinogens and tumorigens and are listed on the EPA Extremely Hazardous Substances List.

**Public Used Oil Collection Center** means a facility which accepts do-it-yourself used oil. Such centers include:

1. automotive service facilities that in the course of business accept for recycling, small quantities of used oil from private citizens; and
2. facilities that store used oil in aboveground tanks, and that in the course of business accept, for recycling, small quantities of used oil from private citizens; and
3. publicly sponsored collection facilities that are designated and authorized by the Texas Department of State Health Services to accept for recycling, small quantities of used oil from private citizens.

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

**Redevelopment** means alterations of a property that changed the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. This term does not include such activities as exterior remodeling.

**Release** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, infecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States. Reportable Quantity (RQ) means the quantity specified in column 3 of the appendix to 49 CFR Part 107.101 for any material identified in column 1.

**Riparian Habitat** means the area of the banks of any river, creek, lake, pond, or other waterway where specialized life form exist.

**Rubbish** means non-putrescible solid waste, excluding ashes, that consist of (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that or which do not burn at ordinary

incinerator temperatures (1600 to 1800 degrees Fahrenheit).

**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 the city sewage treatment plant (and to which storm water, surface water, and ground water are not intentionally admitted).

**Sediment** means solid particular matter, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by water, air, ice, or gravity and has come to rest on the earth's surface either above or below sea level.

**Septic Tank Waste** means any domestic sewage from holding tanks such as from vessels, chemical toilets, campers, trailers, and septic tanks.

**Sewage (or Sanitary Sewage)** means the waste from water closets, urinals, lavatories, sinks, bath tubs, showers, household laundries, basement floor drains, garage floor drains, store rooms, soda fountains, cuspidors, refrigerator drips, fountain and stable floor drains, and all other similar fixtures and receptacles that discharge wastes into sewage systems.

**Single Family Dwelling** means a dwelling unit contained in a freestanding structure designed for occupancy by a single family.

**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.

**Site Development Permit** means a permit issued by the City for the alteration of the ground for the construction or installation of utilities, streets, sidewalks, structures, designed to control erosion and run-off and other grading activities that are not a part of a project that requires a building permit.

**Soil** means naturally occurring superficial deposits overlaying bedrock.

**Solid Waste** means any garbage, rubbish, refuse, sludge from waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

**State** means the State of Texas.

**Storm Water Runoff** means storm water runoff, snow melt runoff, and surface runoff and drainage.

**Storm Water Management Program (SWMP)** means a comprehensive program to manage the quality of discharges into the City of Alamo's MS4.

**Structure Controls** means a pollution prevention practice that requires the construction or use of a device to capture or prevent pollution in storm water runoff. Structural controls and practices may include but are not limited to: wet ponds, bio-retention, infiltration basins, storm water wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

**Surface Water in the State** means lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico from the mean high water level out of 10.36 mile into the Gulf, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the State; except that waters in treatment systems which are authorized by State or federal law or permit, and which are created for the purpose of waste water treatment are not considered to be water in the State.

**TCEQ** means the Texas Commission on Environmental Quality.

**Transporter** means any person who transports or plans to transport over public highways of this state more than 500 gallons of used automotive oil annually.

**Uncontaminated** means not containing a harmful quantity of any substance under state and federal law.

**Underground Storage Tank** means any one or combination of underground tanks and any connecting underground pipes used to contain an accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is 10% or more beneath the surface of the ground.

**Used Oil** means any oil that has been refined from crude oil or as a synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties, but that may be suitable for further use and recyclable.

**Utility Vault** means an underground or enclosed structure installed or constructed for the purpose of enclosing utility lines including, but not limited to electrical transmission lines, telephone connection lines, natural gas conveyance lines, cable

television lines, but not water mains, storm sewer or sanitary sewer lines.

**Wash Water** means any water used to wash any structure, parking lot, vehicle, or piece of heavy equipment.

**Water Bodies** means any groundwater, percolating, or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the State, and all bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, 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 inside the jurisdiction of the State.

**Waters of the United States** means:

- A. water which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all water which are subject to the ebb and flow of the tide.
- B. all interstate waters, including interstate wetlands.
- C. all other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats sandflats, wetlands, sloughs, prairie potholes, wet meadows, play lakes or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such water:
  1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  2. From which fish or shell fish are or could be taken and sold in interstate or foreign commerce; or
  3. Which are used or could be used for industrial purpose by industries in interstate commerce;
  4. All impoundments of waters otherwise defined as waters of the United States under this definition;
  5. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
  6. The territorial sea; and
  7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment system, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States. This exclusion applies only to man made bodies of water which neither were originally created in waters of the United States (such as disposal areas of wetlands) nor resulted from the impoundment of waters of the United States.

**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 Chapter 307 of Title

31 of the Texas Administrative Code.

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

**8-7-4: General Prohibition:**

- A. No person shall introduce or cause to be introduced into the MS4 or water bodies any discharge that causes or contributes to causing the city to violate a water quality standard, the City's TPDES permit, or any state-issued discharge permit for discharges from its MS4 or water bodies.
- B. No person shall introduce or cause to be introduced into the MS4 or water bodies any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavations or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable; for the duration of the project.
- C. No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise cause, allow, or permit to be introduced any of the following substances into the MS4 or water bodies.
- D. No person shall introduce or discharge or cause or permit to be discharged into the MS4 or water bodies within the City limits of the following sections, except as authorized by a valid permit from the City, TCEQ or the EPA.

**8-7-5: Used Oil/Vehicle Fluid:**

- A. Purpose: It is the purpose of this section to reduce the amount of pollutants like oil, grease, heavy metals, and oxygen demanding substances in storm water discharges.
- B. No person shall:
  - 1. introduce used oil, used oil filters, or any other motor vehicle fluids to the MS4 or water bodies;
  - 2. apply used oil and/or vehicle fluid to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil contamination into the environment;

3. introduce flammable or explosive liquids, solids or gases such as, but not limited to, gasoline, motor oil, benzene, naphtha, and similar substances to any water bodies and/or the MS4; or
  4. introduce any wax, grease, oil, antifreeze, or any other motor vehicle fluid to any water bodies and/or to the MS4.
- C. Implications: This section implies that all citizens shall recycle their used motor oil and vehicle fluids by disposing of them at appropriate recycling centers and locations, rather than disposing of them improperly. This applies only to residential do-it-yourself (DIY) motor oil and vehicle fluids. Commercial and industrial businesses should have their own vendors for proper disposal or for recycling.

**8-7-6: Household Hazardous Waste:**

- A. Purpose: It is the purpose of this section to discourage the practice of disposing household hazardous waste such as paint, batteries, cleaning agents, and fertilizers, to the MS4 and/or water bodies, so as to reduce the pollutants such as heavy metals, nutrients, toxic material, oil, and grease in storm water discharges.
- B. No person shall:
1. introduce any type of hazardous waste generated in and around a household including, but not limited to batteries, used paints, solvents, used pesticide bottles/cans, and used toiletries in to the MS4;
  2. discharge a household hazardous waste having a pH value lower than 6.0 or higher than 10.5; or
  3. place or cause, or allow to be placed, a household hazardous waste within the MS4 and/or water bodies. It shall be also unlawful for any person to place, or cause or allow to be placed, a household hazardous waste in an inlet within any street in the corporate limits of the City in such a manner that the same may be washed by the flow of water into the MS4 and/or water bodies.
- C. Implications: This section implies that unused portions of household hazardous products that are considered to be household hazardous waste should be disposed of properly at a household hazardous waste collection site.

**8-7-7: Discharge from Fueling/Vehicle Washing Areas:**

- A. Purpose: It is the purpose of this section to discourage the practice of discharging contaminated water or waste such as grease trap waste, oil/water

separator waste, into the MS4 and/or water bodies and to reduce pollutants such as detergents, sediments from fueling and vehicle washing areas

B. No person shall:

1. introduce into the MS4 and/or water bodies any contaminated water or waste from any fund raising car wash or a commercial car wash facility, from any vehicle washing, cleaning, or maintenance area at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, maintenance facility, or from any washing, cleaning, or maintenance area of any commercial or public service vehicle, including any truck, bus or piece of heavy equipment, by any business or public entity;
2. introduce into the MS4 and/or water bodies any wash water from the washing, cleaning, deicing or other maintenance of aircraft; or
3. discharge into the MS4 and/or water bodies any contaminated water or waste from commercial establishments including but not limited to gas stations, service stations, and auto repair shops with areas exposed to weather conditions.
4. introduce into the MS4 and /or water bodies any excessive water from the washing, cleaning, or other maintenance of vehicles at residential homes;

C. Implications: This section implies that any contaminated water or waste discharges from the aforementioned commercial and industrial areas are prohibited without the presence of a functional pretreatment system. Viable alternatives to washing include the use of sweeping and vacuuming, dry-wash methods and closed loop systems. Viable alternatives to residential washing include the use of commercial car wash facilities, washing vehicles on pervious surface areas, and dry-wash methods.

**8-7-8: Discharge from Oil-Water Separator/grease trap:**

A. Purpose: It is the purpose of this section to reduce the pollutants such as oil, grease, oxygen demanding substances, and nutrients from illicit connections of oil water separators, grease traps into the MS4 and/or water bodies.

B. No person shall:

1. discharge from an oil water separator or an oil/water interceptor or grease trap into the MS4 and/or water bodies;
2. discharge flow from an oil/water separator or an oil/water interceptor having a pH value lower than 6.0 or higher than 10.5.

- C. Implications: All the oil/water separator or interceptor users who are discharging to the MS4 shall notify the Storm Water Manager or designee of the existence of such connections to the MS4 and/or water bodies. Such notification shall be completed within ninety (90) days of the approval of this Ordinance. It is the responsibility of the operator to notify the Storm Water Manager or designee. If the notification is not made during the allocated ninety (90) days, then the detected connections to MS4 and/or water bodies of an oil/water separator or interceptor shall be considered an illicit connection. The City reserves the right to terminate such connection immediately, without prior notice.

**8-7-9: Petroleum Underground Storage Tanks (PUST):**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as oil, grease, oxygen demanding substances, and heavy metals that may be introduced into the MS4 and or water bodies during the removal, replacement, or remediation of petroleum underground storage tanks and sites.
- B. No person shall:
1. release from a PUST, or any leachate or runoff from soil contaminated by a leaking PUST, or any discharge of pumped, confined, or partially treated wastewater from the remediation of any such PUST release is prohibited unless the discharge satisfies all of the following criteria:
    - a. compliance with all local, state, and federal standard requirements and regulations;
    - b. no discharge contains no harmful quantity of any pollutant;
    - c. and shall not have a pH value lower than 6.0 or higher than 10.5.
- C. Implications: It is the responsibility of the owner of the property to notify the Storm Water Manager or designee of the removal or replacement of a PUST. Such notification shall be completed not less than three (3) working days before any activity begins on the site. If the notification is not made before the site activities commence, the owner will be considered non-compliant with this Ordinance.

**8-7-10: Utility Manhole/Vaults Discharge:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as bacteria, nutrients, sediments, oil, grease, and any unknown substance discharges from utility manholes or vaults into the MS4 and/or water bodies.

- B. No person shall:
1. discharge from any public or private underground utility manhole (including, but not limited to electric power, gas pipeline, cable companies, telephone companies) to discharge its collected water (due to rain or surface runoff or cross connection or illegal discharge) into the MS4 and/or water bodies or watercourse; or
  2. discharge into MS4 and/or water bodies from a utility manhole a flow having a pH value lower than 6.0 or higher 10.5.2010
- C. Implications: All the utility manhole/vault operators who are discharging potentially contaminated collected water into the MS4 and/or water bodies shall notify the Storm Water Manager or designee of the existence of such utility manholes, vaults, and discharges into the MS4 and/or water bodies. Such notification shall be completed within sixty (60) working days of the approval of this Ordinance. It is the responsibility of the operators to obtain a single use discharge permit from the Storm Water Manager or designee for every discharge and also prove with the aid of analytical testing that the discharged flow is not contaminated, if the discharged flow is not pretreated.

**8-7-11: Industrial Waste/Effluent Discharge:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as toxic materials, heavy metals, oil, grease, and untreated sewage in storm water discharges from industrial facilities.
- B. No person shall:
1. discharge or introduce any effluent including, but not limited to, a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow from a boiler into the MS4 and/or water bodies; or
  2. discharge or introduce any type of industrial waste or effluent and/or any discharge having a pH value lower than 6.0 or higher than 10.5 into the MS4 and/or water bodies.
- C. Implications: This section implies that none of the aforementioned unpermitted industrial discharges will be allowed in the MS4 and/or water bodies. The industries are asked to apply for individual TPDES permits from the TCEQ.

**8-7-12: Sewage and Waste Water Discharges:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as sewage entering surface water bodies from septic systems.

- B. No person shall:
1. discharge any type of waste water from residential, commercial or industrial sources into the MS4 and/or water bodies.
  2. discharge or introduce any domestic sewage or septic tank waste, grease trap waste, or grit trap waste from either residential, commercial or industrial sites into the MS4 and/or water bodies;
  3. discharge any runoff or wash down water from any animal pen, kennel, or fowl, or livestock containment area.
- C. Implications: This section implies that no domestic sewage, septic tank waste, grease trap waste, waste from animal containment areas grit trap waste may enter into the MS4 and/or water bodies. This includes areas where the naturally occurring movement of water through the soil may cause the sewage to migrate into said water bodies and/or the MS4.

**8-7-13: Chlorinated Discharges:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as excess chlorine in water discharges from swimming pools, fountains, ponds, and water line disinfection.
- B. No person shall:
1. discharge any swimming pool water or filter backwash from swimming pool or fountain into the MS4 and/or water bodies.
  2. discharge from a water line if it has been disinfected by super chlorination or other means and the total residual chlorine exists in any harmful quantity or any other chemical has been used in line disinfection; or
  3. treat sewage overflows with harmful amounts (detrimental to aquatic life) of chlorine to the MS4 and/or water bodies.
- C. Implications: This implies that discharges with hazardous amounts of chlorine, including but not limited to the aforementioned discharges, may enter water bodies and/or the MS4.

**8-7-14: Construction, Development, Redevelopment and Land Disturbance Run-off:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as sediments, heavy metals, toxic material, and nutrients in the storm water discharges from construction, development, redevelopment, and land disturbance activities/sites.

- B. No person shall:
1. discharge from a construction site flowing having a pH value lower than 6.0 or higher than 10.5;
  2. discharge any type of industrial waste from construction sites to the MS4 and or/water bodies;
  3. introduce any garbage, rubbish, or yard waste into the MS4 and/or water bodies;
  4. discharge, including, but not limited to, paint or paint brush cleaning water or solvents or thinners or turpentine or any other combination from single family dwelling or any construction;
  5. leave unused construction materials or used construction materials or debris on the construction, development, redevelopment, and land disturbance sites. All on site debris shall be properly disposed of in the landfill within 10 days from the occupancy of the structures; or
  6. wash any type of trucks, including but not limited to, ready mix trucks or material supply trucks near an area where it discharges directly into the MS4 and/or water bodies.
- C. Implications: This section implies that the aforementioned discharges and/or materials associated with construction, development, redevelopment, and land disturbance activities may enter water bodies and/or MS4s.

**8-7-15: Pesticides, Herbicides, and Fertilizers:**

- A. Purpose: It is the purpose of this section to reduce pollutants such as pesticides, fertilizers, heavy metals, oxygen demanding substance, and nutrients in the storm water discharges. Any person using such pesticides or fertilizers will be properly trained and be certified to use such chemicals.
- B. No person shall:
1. dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or fertilizer container, in a manner that allows a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 and/or water bodies.
- C. Implications: This section implies that pesticides, herbicides and fertilizers must be applied responsibly. It is recognized that excess pesticides will migrate into the MS4 even under normal and proper usage. It is the intent of this Ordinance to restrict usage of those chemicals in a manner deemed appropriate by their manufacturer and consistent with the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA).

**8-7-16: Commercial Dumpster Washing:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as bacteria and unknown substances in waste water discharges from dumpster washing.
- B. No person shall:
  - 1. wash a commercial dumpster, regardless of its location, in an area where it discharges directly into the MS4 and/or water bodies.
- C. Implications: This section implies that wash water from commercial dumpster washings may not enter any water body and/or the MS4. This water must be contained and entered into the sanitary sewer according to the requirements set forth by the Storm Water Manager or designee.

**8-7-17: Ready Mix Concrete Truck Washing:**

- A. Purpose: It is the purpose of this section to reduce pollutants such as sediments, concrete, altered pH, and oxygen demanding substances in the wash water discharges.
- B. No person shall:
  - 1. wash residual ready mix concrete from concrete mixing trucks regardless of its location, in an where discharges might enter the MS4 and/or water bodies.
- C. Implications: This section implies that wash water from concrete mixing or excess concrete from concrete mixing trucks may not be discharged into the MS4 and/or water bodies. The washing is permitted in the ready mix concrete plants only if collected, contained and pretreated before discharging into the sanitary sewer in accordance with the requirements set forth by the Storm Water Manager or designee. The washing is permitted within the construction site only if collected, contained and disposed of in accordance with best management practices set forth by the Storm Water Manager or designee.

**8-7-18: Illicit Connection:**

- A. Purpose: It is the purpose of this section to eliminate illicit connections to the MS4 and reduce the pollutants such as nutrients, oxygen demanding substance, sewage, oil, and grease introduced by said discharges into the MS4 and/or water bodies.

- B. No person shall:
1. connect a line conveying sanitary sewage, domestic waste, or industrial effluent to the MS4 and/or water bodies, allow such a connection to continue.
- C. Implications: The Storm Water Manager or designee has an "Illicit Discharge Detection and Elimination Program" to the MS4 and water bodies in compliance with state and federal storm water regulations. Any illicit connections detected through this program will be dealt with expeditiously in the following: It is the responsibility of the owner of the property to disconnect such illicit connection within fifteen (15) calendar days upon written notification from the City. The City will also notify the tenant about the illicit connection. If the owner fails to respond to the notification, then the City will post the illicit connection information with a legal description of the property in a local newspaper with an additional ten (10) days to respond. If no response is received from the owner, then the illicit connection will be disconnected by the City without further notification.

**8-7-19: Pavement/Parking Lot Washing/Window Washing:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as sediments, detergents, oxygen demanding substances, heavy metals, oil, and grease in the wash water discharges from pavements or parking lots from commercial and business establishments.
- B. No person shall:
1. discharge any waste water from the washing or cleaning of pavement including, but not limited to parking lots, driveways, or carports that contain soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance or any wastewater from the wash down or other cleaning of any pavements where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed or pretreated; or
  2. discharge any wash water from a commercial mobile power washer or from the washing or other cleaning of a pavement or building exterior, including but not necessarily limited to windows, that contain any soap, detergent, degreaser, solvent, or any other harmful cleaning substance to MS4 and/or water bodies.

- C. Implications: This section implies that wash water from the washing of pavement including, but not limited to parking lots, driveways, building exteriors or carports may not enter any water body and/or the MS4 without proper treatment. The washing is permitted only if collected, contained and pretreated before discharging into the sanitary sewer on accordance with requirements set forth by the Storm Water Manager or designee or if collected, contained and disposed of in accordance with approved best management practices set forth by the same.

8-7-20: **Polychlorinated Biphenyls (PCB) Elimination:** polychlorinated biphenyls (PCBs; CAS number 1336-36-3) are class of organic compounds with 1 to 10 chlorine atoms attached to biphenyl, which is a molecule composed of two benzene rings. The chemical formula for PCBs is  $C_{12}H_{10-x}Cl_x$ . PCBs were widely used for many applications, especially as dielectric fluids in transformers, capacitors, and coolants. Due to PCB's toxicity and classification as a persistent organic pollutant, PCB production was banned by the United States Congress in 1979 and by the Stockholm Convention on Persistent Organic Pollutants in 2001.

- A. Purpose: It is the purpose of this section to reduce the possibility of contamination of storm water by PCBs (polychlorinated biphenyls)
- B. No person shall:
1. discharge, introduce, cause or permit any PCB or any substance known or suspected of containing PCBs, or technical products classified as PCBs, or derivatives of PCBs into MS4 and/or water bodies, or any location that is susceptible to storm water runoff within the City's jurisdictional limits.
- C. Implications: This section implies that no PCBs, substance containing PCBs, or substance suspected of containing PCBs shall be introduced into any water body and/or MS4. The Public Utility Companies such as power, gas, telephone, shall notify the Storm Water Manager or designee of any such spills, leaks, overflows from sources including, but not limited to, transformers and capacitors within three (3) hours of such mishaps.

8-7-21: **Asbestos Elimination:** Asbestos is a set of six naturally occurring silicate minerals exploited commercially for their desirable physical properties. They all have in common their asbestiform habit, long, thin fibrous crystals. The inhalation of asbestos fibers can cause serious illnesses, including malignant lung cancer, mesothelioma, and asbestosis.

- A. Purpose: It is the purpose of this section to reduce the possibility of contamination of storm water by asbestos.
- B. No person shall:
  - 1. discharge, introduce, cause or permit to be discharged any asbestos or any substance known or suspected of containing asbestos, or technical products classified as asbestos, derivatives of asbestos into the MS4 and/or water bodies, or any location that is susceptible to storm water runoff within the City's jurisdictional limits.
- C. Implications: This section implies that no asbestos, substance containing asbestos, or substance suspected of containing asbestos may be introduced into any water body or MS4.

**8-7-22: Grass Trimmings, Leaves, and Limbs:**

- A. Purpose: It is the purpose of this section to reduce pollutants like sediments, nutrients, floatable materials, oxygen demanding substances, pesticides, and unknowns in the storm water discharges from trimmings of grass, leaves and limbs.
- B. No person shall:
  - 1. intentionally place or cause or allow to be placed, or dropped, brush cuttings, grass clippings, grass, and/or rubbish in the inlets of any street in the City limits in such a manner that the same may be washed by water flowing into any bodies of water and/or the MS4.
- C. Implications: This section implies that no brush cuttings, grass clippings, grass, and/or rubbish, shall be introduced into any water bodies and or/the MS4.

**8-7-23: Landscape Irrigation, Lawn Irrigation, and other Irrigation:**

- A. Purpose: It is the purpose of this section to reduce the pollutants such as sediments, chlorine, pesticides, herbicides and fertilizers in the water runoff discharges from runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation, including agricultural irrigation.
- B. No person shall:
  - 1. discharge any excessive water runoff from discharges resulting from normal landscape irrigation, lawn irrigation, and other

irrigation; or

2. discharge any water runoff from discharges resulting from inefficient practices, from faulty equipment, from improperly placed equipment, from use of equipment in violation of local, state and/or federal regulations, from un-permitted irrigation systems, where applicable, from leaking equipment from leaking conveyance systems, or from other leaking appurtenances.

C. Implications: This section implies that excessive water runoff discharges from runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation, including agricultural irrigation may not enter any water body and/or the MS4. Landscape irrigation, lawn irrigation and other irrigation, including agricultural irrigation, must be conducted in accordance with approved best management practices set forth by the Storm Water Manager or designee.

8-7-24: **Acceptable Waters:** The following non-storm water sources, according to 40 CFR 122.26 and/or the City's MS4 permit, may be discharged from the small MS4 are not required to be addressed in the small MS4's Illicit Discharge and Detection or other minimum control measures, unless they are determined by the City or the TCEQ to be significant contributors of pollutants to the small SM4:

1. water line flushing (excluding discharges of hyper-chlorinated water, unless the water is first de-chlorinated and discharges are not expected to adversely affect aquatic life);
2. runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, ground water, or surface water sources (excessive runoff) can be deemed to be significant contributors of pollutants to the small MS4);
3. discharges from potable water sources (excessive runoff can be deemed to be significant contributors of pollutants to the small MS4);
4. diverted stream flows;
5. rising ground waters and springs;
6. uncontaminated ground water infiltration;
7. uncontaminated pumped ground water;
8. foundation and footing drains;
9. water from crawl space pumps;
10. individual residential vehicle washing (excessive runoff can be deemed to be a significant contributor of pollutants to the small MS4);
11. flows from wetlands and riparian habitats;
12. de-chlorinated swimming pool discharges;
13. street wash water (excessive runoff can be deemed to be a significant

contributor of pollutants to the small MS4;

14. discharges or flows from fire fighting activities (fire fighting activities do not include washing of trucks, runoff water from training activities, test water from fire suppression systems, and similar activities);
15. other allowable non-storm water discharges listed in 40 CFR 122.26(d)(2)(iv)(B)(1)(excessive runoff can be deemed to be a significant contributor of pollutants to the small MS4);
16. non-storm water discharges that are specifically listed in the TPDES MS4 permit or a site specific TPDES Construction General Permit (CGP); and
17. other similar occasional incidental non-storm water discharges, unless the TCEQ develops permits or regulations addressing these discharges.

**8-7-25: Release Reporting and Cleanup:**

- A. The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4 and/or water of the State and/or United States, shall immediately contact the Storm Water Manager or designee or the Police Department or the Fire Department concerning the incident:
  1. An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
  2. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
  3. An amount of oil that either
    - a. violates applicable water quality standards, or
    - b. causes a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
  4. Any harmful quantity of any pollutant.
- B. The immediate notification required by 8-7-23(A) shall include the following information:

1. The identity or chemical name of the substance release, and whether the substance is an extremely hazardous substance;
2. The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;
3. The time and duration (thus far) of the release;
4. An estimate of the quantity and concentration (if known) of the substance released;
5. The source of the release;
6. Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
7. Any precautions that should be taken as a result of the release;
8. Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and
9. The names and telephone numbers of the person or persons to be contacted for further information.

C. Within ten (10) days following such release, the responsible person in charge of the facility, vehicle, or other sources of the release shall submit, unless waived by both the Storm Water Manager and Fire Department, a written report containing each of the items of information specified in the aforementioned as well as the following additional information:

1. the ultimate duration, concentrations and quantity of the release;
2. all actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;
3. any known or anticipated acute or chronic health risks associated with the release; and
4. the identity of any governmental/private sector representatives responding to the release; and
5. the measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.

The notifications required by section 8-7-23(B)(C) shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person to any fine, penalty, or other liability which may be imposed pursuant to this Ordinance, state or federal law.

- D. Any person responsible for any release as described in section 8-7-23(A) shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
- E. Any person responsible for a release described in section 8-7-23(A) shall reimburse the City for any cost incurred by the City in responding to the release.

**8-7-26: Right of Entry, Inspection and Sampling:** The City's Storm Water Manager or its designees shall have the right to enter the premises of any person discharging storm water to the municipal separate storm sewer system (MS4) and/or to waters to the State and/or United States to determine if the discharger is complying with all requirements of this Ordinance, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the City's Storm Water Manager or its designee ready access to all parts of the premises for the purposes of inspection, sampling, records examination, photo recording and copying, and for the performance of any additional duties. Dischargers shall make available to the City's Storm Water Manager or its designees, upon request, any pollution control measures or modifications thereto, self-inspection reports, monitoring records, compliance evaluations, Notices of Intent, and any other records, reports or documents related to compliance with this Ordinance and with any state or federal discharge permit.

1. Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City's Storm Water Manager or its designees will be permitted to enter without delay for the purposes of performing responsibilities.

2. The City's Storm Water Manager or its designees shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the discharger's operations.
3. The City's Storm Water Manager or its designees may require, at his/her reasonable discretion, the discharger 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.
4. The City's Storm Water Manager or its designees may require, at his/her reasonable discretion, the discharger to install monitoring equipment as necessary at the discharger's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow, waste water and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at all the written or verbal request of the City and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
6. Unreasonable delays in allowing the City's Storm Water Manager or its designees access to their discharger's premises shall be a violation of this Ordinance.

8-7-27: **Violations and Non-compliance:** A penalty is hereby established whereby any person who shall violate any provision of this Ordinance shall be deemed to be guilty of a misdemeanor and shall upon conviction be fined a minimum amount of not less than five hundred dollars (\$500.00) per violation and a maximum amount of not less than two thousand dollars (\$2,000.00) per violation. Each day of violation and each violation of a particular section of this Ordinance shall constitute a separable, offense for purposes of the City's enforcement of this Ordinance. A culpable mental state is not required to prove an offense under this Ordinance.

Upon the written certification by the City of the violation of any section of this Ordinance, the City Attorney is authorized to petition any court of competent jurisdiction for any injunction to enjoin the continuance of such violation. This remedy shall be cumulative of and to all other enforcement powers granted to the City by the terms of its Charter or any ordinance, or by the laws of the State or the United States.

No provision of this Ordinance is intended, nor shall any part or portion hereof be construed so as to conflict with the Texas Water Code, state regulations, or federal regulations.

If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board of Commissioners hereby declares that this Ordinance would have been enacted without such invalid provision.

If compliance is not achieved to the City's satisfaction, the City may at its discretion, report the noncompliance to the USEPA, the TCEQ, the USGS, the U.S. Wildlife and Fisheries, the U.S. Army Corp of Engineers, or any other state or federal agency for further action.

**Non-Compliance Flag and Stop Work Orders:** If the City's Storm Water Manager or its designees determines that activities are being carried out in violation of this chapter, a notification of noncompliance shall be issued. In addition to the notification, if the violation continues beyond five (5) days, a "Non-compliance Flag" will be posted at the site. Finally, if the violation continues after five (5) days after the "Non-compliance Flag" is posted, the City may stop all work until corrective measures have been completed. The site shall be posted with a "Stop Work" notice. No other permits may be issued by the City until corrections have made to the satisfaction of the City. It is also against this Ordinance either to move or interfere with "Noncompliance Flag" and/or Stop Work orders, and shall be considered as additional violation(s) of this Ordinance.

**Notification of Violation:** Any person found to be in violation of the provisions of this Ordinance shall be required to correct the problem upon written notification from the City. Such written notification may require that certain conditions be adhered to in the correction of the problem. These may include, but are not limited to, the following:

1. use of specific pollution prevention measures and techniques;
2. use of pre-treatment procedures pollution prevention plans;
3. modification of existing plan;
4. completion of work within a specified time period; and
5. submission of pollution prevention plan or any other of its type.

Appeals: Any person denied discharge to MS4 shall have the right to appeal such to the City Manager within ten (10) days of the date of such denial.

8-7-28: **Citizen Participation:** Citizen reports of violations: All citizens are encouraged to report to the City's Storm Water Manager at 956-784-8140 any spills, releases, illicit connections, or any other instances of anyone discharging pollutants into MS4 storm sewer system or waters of the State or waters of the United States and any other violation of this Ordinance which they become aware of.

SECTION II. The City Secretary is hereby directed to cause this Ordinance to be published in the Code of the City of Alamo.

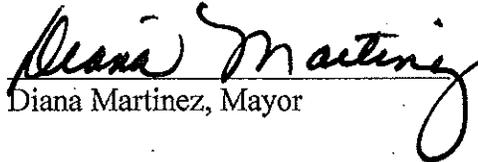
SECTION III. The City Secretary is hereby authorized to publish a notice of the official newspaper in and for the City of Alamo, Texas, according to law

SECTION IV. This Ordinance shall be effective after its passage and signature by the Mayor of the City of Alamo.

SECTION V. If any section, or part of any section, paragraph or clause of this Ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect of any other section, part of any section, paragraph or clause of this Ordinance.

PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS, at a Regular Meeting called and held on this the day of December, 2011, held in accordance with the provisions of Chapter 551 of the Texas Government Code.

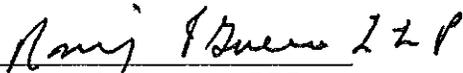
CITY OF ALAMO:

  
Diana Martinez, Mayor

ATTEST:

  
\_\_\_\_\_  
Margot Saenz, City Secretary

APPROVED AS TO FORM ONLY:

  
\_\_\_\_\_  
Ramirez & Guerrero, LLP  
City Attorney