

ORDINANCE NO. 2008-00095

AN ORDINANCE ADDING CHAPTER 30 TO THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, BY ADDING THERETO A NEW ARTICLE I PERTAINING TO STORM WATER DRAINAGE WITHIN THE CITY OF LUBBOCK; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR PUBLICATION.

WHEREAS, Congress passed the Water Quality Act of 1987 in an attempt to address the impact that urbanization and storm water runoff resulting from urbanization have on the quality of the nation's receiving streams and directed the Environmental Protection Agency (EPA) to establish and implement regulations governing storm water drainage under the National Pollutant Discharge Elimination System (NPDES); and

WHEREAS, the EPA delegated authority to the Texas Commission on Environmental Quality (TCEQ) to establish and implement regulations governing storm water drainage under the Texas Pollutant Discharge Elimination System (TPDES) that requires the City of Lubbock to obtain a TPDES permit for storm water drainage; and

WHEREAS, in order to comply with said Lubbock TPDES Permit No. WQ0004773000 which became effective June 6, 2008, as well as any other federal or state agency that may succeed the EPA's authority, it is necessary that the City of Lubbock enact and enforce an ordinance regulating storm water drainage within the City of Lubbock;

WHEREAS, the City of Lubbock adopted Ordinance No. 9634, Municipal Drainage Utility, Chapter 28, Article VI.;

WHEREAS, the City of Lubbock adopted Ordinance No. 2001-O00009, Development and/or Acceptance of Playa Lake Areas, Chapter 21 and Chapter 25; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the Code of Ordinances, City of Lubbock, Texas, is hereby amended by adding a new article, to be numbered Article I, to Chapter 30, which said article reads as follows:

ARTICLE I. STORM WATER REGULATIONS

I. GENERAL PROVISIONS

A. Purposes

The purpose and objectives of this Ordinance are as follows:

1. To maintain and improve the quality of surface water within the City of Lubbock, the State of Texas, and the water of the United States insofar as each is within the corporate boundaries of the City of Lubbock, or subject to or otherwise affected by acts of the City of Lubbock or its residents, or otherwise required by TPDES Stormwater Permit No. WQ0004773000.
2. To prevent the discharge of contaminated storm water runoff from industrial, commercial, residential, and construction sites into storm sewers and natural waters within the City of Lubbock.
3. To promote public awareness of the hazards involved in the improper or illegal discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the natural inlets of the City.
4. To promote recycling of used motor oil, and safe disposal of other hazardous consumer products or waste by-products.
5. To facilitate compliance with state and federal standards and permits by owners and operators of industrial and construction sites within the City.
6. To enable the City to comply with all federal and state laws and regulations applicable to storm water discharges.
7. To establish legal authority to carry out all inspections, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with applicable permits.

B. Administration

Except as otherwise provided herein, the Storm Water Engineer shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Storm Water Engineer may be delegated by the Storm Water Engineer to other City personnel as appropriate.

C. Abbreviations

The following abbreviations when used in this Ordinance shall have the designated meanings:

- BMP - Best Management Practices

- CFR - Code of Federal Regulations
- EPA - United States Environmental Protection Agency
- HHW - Hazardous Household Waste
- mg/l - Milligrams per liter
- MS4 - Municipal Separate Storm Sewer System
- NOC - Notice of Change
- NOI - Notice of Intent
- NOT - Notice of Termination
- NPDES - National Pollutant Discharge Elimination System
- RCRA - Resource Conservation and Recovery Act
- RQ - Reportable Quantity
- SARA - Superfund Amendments and Reauthorization Act of 1986
- SWP3 - Storm Water Pollution Prevention Plan
- TPDES - Texas Pollutant Discharge Elimination System
- USC - United States Code

D. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

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

*City.* The City of Lubbock, Texas, or the City Council of Lubbock.

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

*Commencement of Construction.* The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material, demolition).

*Construction Activity.* Construction activities including clearing, grading, and excavating that are subject to TPDES General Construction Permits. It does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance. Additionally, it does not include the routine grading of existing dirt roads, asphalt overlays of

existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

*Construction Discharge.* The drainage, release, or disposal of pollutants in storm water and certain non-storm water from areas where soil disturbing activities (e.g., clearing, grading, excavation, stockpiling of fill material, and demolition), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

*Construction Site.* Any construction site required by the Clean Water Act to operate within the limits of a TPDES permit to discharge stormwater associated with construction activity.

*Discharge.* 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. This includes, but is not limited to, household hazardous waste, used motor vehicle fluids, and collected quantities of grass clippings, leaf litter, and animal wastes.

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

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

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

*Extremely Hazardous Substance.* Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification, as amended, or its successor rule.

*Facility.* Any building, structure, installation, process, industrial facility, construction site or activity required by the Clean Water Act to have a permit to discharge stormwater associated with industrial or construction activity.

*Fats, Oils, and Greases (FOG):* means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

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

*Fire Department.* The Fire Department of the City of Lubbock, or any duly authorized representative thereof.

*Ground Water Infiltration.* Means uncontaminated ground water that enters an MS4 (including storm sewer service connection and foundation drains) from the ground by way of defective pipes, pipe joints, connections, or manholes.

*Harmful Quantity.* The amount of any substance that will cause pollution of Surface Water in the State, Waters of the United States, the municipal stormwater drainage system, or that will present or may present imminent and substantial damage to the environment or to the health or welfare of persons.

*Hazardous Household Waste (HHW).* Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day-use recreational areas) which, except for any exclusion provided in 40 CFR Part 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

*Hazardous Substance.* Any substance listed in Table 302.4 of 40 CFR Part 302.

*Hazardous Waste.* Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

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

*Illicit Connections.* Any man-made conveyance connecting an Illicit Discharge directly to a municipal separate storm sewer.

*Illicit Discharge.* Any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharges pursuant to an NPDES or TPDES permit (other than the NPDES or TPDES permit for certain discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and other allowable non-storm water discharges detailed in Section II. B (1-16).

*Industrial Facility.* Any facility required by the Clean Water Act to have a permit to discharge stormwater associated with industrial activity subject to TPDES Industrial Permits as defined in 40 CFR Part 122.26 (b)(14).

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

*Maximum Extent Practicable (MEP).* The technology-based discharge standard form MS4 established by Section 402(p) of the Federal Clean Water Act.

*Mobile Wash Cleaning.* Any cleaning done for cosmetic purposes with the use of a mobile wash apparatus. It does not include industrial cleaning, cleaning associated with manufacturing activities, hazardous or toxic waste cleaning, or any cleaning otherwise regulated under federal, state, or local laws.

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

*Municipal Separate Storm Sewer System (MS4).* The system of conveyances (including roads with drainage systems, municipal streets, alleys, 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, and which is not used for collecting or conveying Sewage.

*Municipal Solid Waste.* Solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, including but not limited to garbage, rubbish, ashes, street debris, dead animals, abandoned automobiles, and other solid waste other than industrial solid waste.

*NPDES Permit.* 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.

*Notice of Change (NOC).* Written notification to the executive director of TCEQ from a discharger authorized under the Industrial General Permit or the Construction General Permit, providing changes to information that was previously provided to the TCEQ in a notice of intent form.

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

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

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

*Operator.* The person or persons associated with a large or small construction activity that is either a primary or secondary operator as defined below:

*Primary Operator* - The person or persons associated with a large or small construction activity that meets either of the following two criteria: (1) the person or persons have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) the person or persons 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 (SWP3) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

*Secondary Operator* - The person whose operational control is limited to the employment of other operators or to the ability to approve or disapprove changes to plans and specifications. A secondary operator is also defined as a primary operator and must comply with the permit requirements for primary operators if there are no other operators at the construction site.

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

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

*Playa Lake.* Any of several naturally occurring, broad, shallow, roughly circular depressions of varying sizes and depths that serve as natural detention basins for storm water flows within the City of Lubbock or its extraterritorial jurisdiction (ETJ).

*Pollutant.* Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, or agricultural waste 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.* 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.

*Regulated Activity.* Activity occurring at an industrial facility or construction site, which qualifies the facility or site to acquire a permit to discharge stormwater under the Clean Water Act.

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

*Sanitary Sewer (or sewer).* The system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which storm water, surface water, and groundwater are not intentionally admitted).

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

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

*Site.* The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

*Small Construction Activity.* Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.)

*State.* The State of Texas.

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

*Storm Water Engineer.* The person appointed to the position of Storm Water Engineer for the City, or his/her duly authorized representative(s).

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

*Storm Water Pollution Prevention Plan (SWP3).* A plan required by either the Construction General Permit or the Industrial General Permit, and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction or other industrial activity at the facility.

*Surface Water in the State (or water).* Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state

(from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

*Texas Commission on Environmental Quality (TCEQ).* The environmental agency for the state

*TPDES General Permit for Storm Water Discharges Associated with Industrial Activity (or Multi Sector General Permit).* The Multi Sector General Permit issued by the TCEQ on August 14, 2006 as TPDES General Permit No. TXR050000, and any subsequent modifications or amendments thereto

*TPDES General Permit for Storm Water Discharges Associated with Construction Activity (or Construction General Permit).* The Construction General Permit issued by the TCEQ on March 5, 2003 as TPDES General Permit No. TXR150000, and any subsequent modifications or amendments thereto.

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

*Wastewater.* Spent or used water with dissolved or suspended solids, that has been discharged from homes, commercial establishments, farms, or industries.

*Water Quality Standard.* The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the State to be necessary to protect those uses, as specified in Chapter 307 of Title 31 of the Texas Administration Code.

*Waters of the United States.* All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of

which would affect or could affect interstate or foreign commerce including any such waters: 1) which are or could be used by interstate or foreign travelers for recreational or other purposes; 2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or 3) which are used or could be used for industrial purposes by industries in interstate commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all territorial sea; and all wetlands adjacent to waters (other than waters that are themselves wetlands) identified in this definition. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR Part 423.11 (m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA. Any waters within the federal definition of "waters of the United States" at 40 CFR Part 122.2.

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

## II. GENERAL PROHIBITION AND EXCEPTIONS

- A. No person shall intentionally introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of storm water, unless it is composed entirely of one or more of the categories of discharges listed in Subsection B of this section and the non-stormwater discharges in the City's MS4 Permit. Any direct connection to a City-owned storm sewer shall only occur after prior written authorization is obtained from the Storm Water Engineer.
- B. Notwithstanding the general prohibition in Subsection A of this section, any discharge composed entirely of one or more of the following categories of discharges is permissible (unless a determination and notice pursuant to subsection C of this section has been given):

1. Discharges authorized by, and in full compliance with, a separate NPDES or TPDES permit;
2. Water line flushing or disinfection that contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;
3. Landscape irrigation;
4. Diverted stream flows;
5. Rising ground waters;
6. Uncontaminated ground water infiltration (see Section I. D. Definitions);
7. Uncontaminated pumped groundwater;
8. A discharge or flow from a potable water source not containing any harmful substance or material;
9. Foundation drains;
10. Air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
11. Irrigation water;
12. Springs;
13. Water from crawl space pumps;
14. Footing drains or sump pumps;
15. Lawn watering;
16. Street wash water;
17. Individual residential vehicle washing;
18. Wash water using only potable water and which are similar in quality and character to street wash water or individual residential vehicle washing but without the use of detergents or surfactants;
19. Flows from riparian habitats or Playa Lakes and wetlands;

20. Charitable car washes;
  21. Agricultural storm water runoff.
- C. No exception shall be available under Subsection B of this section if the discharge or flow in question has been determined by the Storm Water Engineer to be a source of a pollutant or pollutants to the MS4 or to the Waters of the United States, notice of such determination has been provided to the discharger, and the discharge has continued after the expiration of the time given in the notice to cease the discharge. The correctness of the Storm Water Engineer's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

### III. SPECIFIC PROHIBITIONS AND REQUIREMENTS

- A. The specific prohibitions and requirements in this section are not necessarily inclusive of all the discharges prohibited by the general prohibition in Section II.
- B. No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a water quality standard, the City's TPDES permit, or any state-issued discharge permit for discharges from its MS4.
- C. The construction, connection, use, maintenance or continued existence of any illicit connection to the MS4 is prohibited.
- D. Connections that were permissible when originally installed but that are now considered illicit, must be brought into compliance within 30 days of notification.
- E. It shall be a violation of this Ordinance for any person to intentionally deposit, discharge, dispose, drain, dump, emit, empty, leak, leach, pump, pour, spill, throw or otherwise introduce or cause to be introduced into the MS4, or any storm sewer manhole, catch basin, private drain, ditch, street, gutter, creek, stream, tributary, playa lake or any other drainage device which connects with or drains into the MS4, any of the following described materials or substances within the corporate limits of the City of Lubbock:
  1. Any Oil, antifreeze or any other petroleum product or waste;
  2. Any Industrial Waste;

3. Any direct discharge of concrete truck washout water.
  4. Any Hazardous Waste, including Hazardous Household Waste;
  5. Any Domestic Sewage or Septic Tank Waste;
  6. Any Wastewater from a commercial carwash facility;
  7. Any wastewater from street washing or other cosmetic cleaning that contains any soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance, unless all harmful quantities of such released material has been previously removed;
  8. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
  9. Any substance or material that will damage, block, or clog the MS4.
  10. Any intentional disposal of grass clippings, leaves or other vegetation into any gutter, street, sidewalk, or other drainage device that connects with or drains into the MS4;
  11. Superchlorinated potable water from water line flushing and disinfection;
  12. Any acid waste materials or alkaline waste materials;
  13. Any water or waste containing fats, oils, grease, free-floating, or insoluble oil;
  14. Any gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;
  15. Any noxious, malodorous, poisonous, or reactive substance which, either singularly or by interaction with other substances, or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant or animal life, or property;
- F. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of concrete, asphalt, sediment, silt, earth, soil, or other material associated with clearing, grading, excavation 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.

G. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.

H. Regulation of Pesticides, Herbicides, and Fertilizers.

1. 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.

2. 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.

I. Used Oil Regulation

It shall be a violation of this Ordinance for a person to:

1. Intentionally discharge or dispose of used motor vehicle fluids (including motor oil and antifreeze) into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course;

2. Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or directly dispose of used oil on land or in a landfill; or

3. Intentionally apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

#### IV. SPILL OR LEAK REPORTING AND CLEANUP

A. Spills or leaks of polluting substances discharged to or having the potential to be indirectly transported to the MS4 shall be contained, controlled, collected and removed promptly. All affected areas shall be restored to their preexisting condition. Any costs of the containment, control, collection, removal or restoration incurred by the City of Lubbock

shall be reimbursed to the City by the person or persons associated with the spill or leak.

- B. Persons associated with the spill or leak shall immediately notify the City of Lubbock of spills or leaks containing polluting substances. Notification shall not relieve the responsible person(s) of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this Ordinance or to state or federal law.
- C. Any person operating a vehicle that causes or results in an accidental discharge or release to the MS4 shall be responsible to reimburse the City of Lubbock for any incurred costs resulting from any testing, containment, cleanup, abatement, removal and disposal of contamination.

#### V. MOBILE WASH CLEANING

A. Permit and Registration Required.

- 1. All persons engaging in the use and/or operation of a mobile wash apparatus shall be required to register the mobile wash apparatus with and obtain a permit from the Storm Water Engineer.

B. Permit Application Procedure.

- 1. A person required by Section A above to have a permit shall complete and file a permit application on a form prescribed by the Storm Water Engineer.
- 2. The Storm Water Engineer may require any information on an application that the Storm Water Engineer believes is necessary to ensure that best management practices are implemented by the permittee.
- 3. The application shall include a description of the mobile wash apparatus and the vehicle license registration number of the trailer and/or apparatus, if applicable.
- 4. Any applicant who utilizes wash water recycling units shall list all sanitary sewer discharge locations and other disposal sites the applicant uses or intends to use.
- 5. A permit fee of \$25.00 shall be submitted upon completion of application.

C. Issuance of Permits.

1. The Storm Water Engineer may issue a permit after the applicant pays all applicable fees, unless the Storm Water Engineer has cause to deny such permit, as specified in Section F below.
2. A permit shall be valid for one year from the date of its issuance, unless suspended or revoked.
3. A permit shall not be transferable.
4. The Storm Water Engineer will issue a registration number for each mobile wash apparatus or implement registered under a permit, and listed on the permit. A registration number is not transferable.
5. The Storm Water Engineer will issue a permit for each mobile wash apparatus or implement registered under this Section. The permit shall be of a size and design determined by the Storm Water Engineer.

D. Display of Registration Numbers and Certificates.

1. A permit holder shall have the registration numbers permanently displayed on each of its mobile wash apparatus registered under the permit as follows:
  - a. The registration number shall be placed on both sides of the mobile wash apparatus in a location designated by the Storm Water Engineer.
  - b. The registration number shall be in numerals of a minimum height of three (3) inches, in a color prominently contrasting to their background, and in a visible location.
2. A permit holder shall carry the permit with the mobile wash apparatus and have it readily available for review upon the request of a Storm Water Inspector.
3. A person commits an offense if the person operates or causes to be operated a mobile wash apparatus or implement which does not properly display the registration number assigned to that vehicle by the Storm Water Engineer.
4. A person commits an offense if the person operates or causes to be operated a mobile wash apparatus or implement without possession of a valid permit.

E. Permit Conditions. As a condition of receiving and maintaining a permit under this Article a permit holder shall comply with the following:

1. A permit holder shall immediately notify the Storm Water Engineer of any ownership changes in the business during the time the permit is in effect.
2. A permit holder shall submit samples of wash water and/or waste water to the Storm Water Engineer, immediately upon demand.
3. A permit holder who utilizes wash water recycling units shall notify the Storm Water Engineer in writing and in advance of all proposed disposal sites for use during the permit period;
4. A permit holder shall immediately notify the Storm Water Engineer when the permit holder sells or otherwise disposes of a mobile wash apparatus or implement registered under its permit.
5. A permit holder shall ensure that all of its employees engaged in mobile wash cleaning are knowledgeable of the discharge prohibitions to the MS4 under this article, and shall require all its employees to use best management practices when engaging in mobile wash cleaning.
6. A permit holder shall ensure that all of its mobile wash apparatus and implements registered under the permit display the registration numbers and possess valid permits as required by this Article, and further shall not allow unregistered mobile wash apparatus or implements to engage in mobile wash cleaning.
7. A permit holder shall not discharge to the MS4 in violation of this Article.
8. A permit holder may be required to submit test results of a representative sample of discharge water if there is reason to believe that the contents of the discharge water are in violation of this Ordinance.

F. Permit denial and revocation.

1. The Storm Water Engineer may deny a permit, or after notice revoke a permit, if:
  - a. The permit application contains a false statement of a material fact;

- b. The person engages in operations that do not consist solely of mobile wash cleaning; or
  - c. The permit holder or an employee of the permit holder has violated a permit condition.
2. An applicant whose permit is denied will be notified by the Storm Water Engineer, in writing, of the denial and the grounds thereof. Such notice will be sent certified mail, return receipt requested, to the mailing address listed on the application.
  3. An applicant whose permit is denied may request reconsideration no later than the tenth day after receipt of the notice of denial, in accordance with Section X., paragraph H.

VI. STORM WATER PLAN REVIEW

- A. Process. Storm Water Pollution Prevention Plan (SWP3) shall be submitted for review in accordance with NPDES or TPDES permit requirements and this Ordinance. Any operator desiring TPDES permit coverage shall submit to the Storm Water Engineer a stormwater plan review application on a form provided by the City of Lubbock Storm Water Management Department along with a copy of the SWP3 and the fee as established by VI.B. Should the plan review process exceed ten (10) business days, construction activities may commence under the submitted SWP3. Once the plan review is complete, any necessary changes will be made to the SWP3 at the project site.
- B. Storm Water Plan Review Fees. All applications for storm water management plan review approval shall be accompanied by the appropriate processing fee. The fee for review shall be based on the disturbed area at the site as described below. Total disturbed area is that portion of the total project area where earth disturbance activities are planned to occur.

SCHEDULE OF FEES

Disturbed Area (acres)	Flat Fee
0 - 4.99	\$50.00
5.00 – 20.00	\$100.00

Add \$5.00 per acre, or part thereof, above 20 acres.

- C. The SWP3 shall be modified if changes are made to the acreage being disturbed. If the change includes the addition of disturbed acreage, the

applicant will be required to pay the fee difference in accordance with the schedule of fees, if applicable.

## VII. FACILITY INSPECTION FOR STORMWATER DISCHARGES

### A. Applicability for Industrial and Construction Activity.

This section applies to all facilities and construction sites located within the city limits or otherwise subject to the regulatory authority of the City of Lubbock that have stormwater discharges associated with industrial activity or construction site activity.

State of Texas regulations require that subject facilities apply for and obtain general permits for industrial facilities (TPDES TXR050000) and construction sites (TXR150000) that have been determined to contribute or have the potential to contribute substantial pollutant loads to the municipal stormwater drainage system or waters of the State. The general permits require that the permittee develop, implement, and maintain a Stormwater Pollution Prevention Plan (SWP3) and submit a Notice of Intent notifying the TCEQ and the municipal stormwater drainage system operator (City of Lubbock).

The MS4 permit issued to the City of Lubbock by the TCEQ mandates that the City of Lubbock “Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance with permit conditions” (Part III (E)(6)) and implement a program that includes “Inspection of construction sites and enforcement of control measure requirements” (Part III (B)(9)(b)).

To meet these requirements the City of Lubbock must enter onto the premises of industrial and construction sites to inspect, monitor, and conduct surveillance of requirements mandated by the TCEQ. These requirements include, but are not limited to:

1. Review of the facilities SWP3 with on-site conditions;
2. Evaluation of best management practices to effectively prohibit the discharge of non-stormwater to the municipal stormwater drainage system;
3. Inspection for illicit connections and illicit discharges;
4. Self-inspection compliance; and

5. Compliance with the City's MS4 permit and the facilities subject general permit (TXR150000 or TXR050000)

B. Access to industrial facilities and construction sites.

1. The intent of facility inspections shall be to determine compliance with the conditions of the City's TPDES permit, any applicable NPDES or TPDES general permits and this Ordinance. Facility and construction site owners and operators shall allow the Storm Water Engineer ready access to applicable sections of public and private premises for the sole purpose of inspection, surveillance, and monitoring for the presence of illegal discharges to the municipal stormwater drainage system, illicit connections to the municipal stormwater drainage system, and assessment of any portions of a regulated facility influenced by stormwater runoff that may adversely affect the municipal stormwater drainage system and/or waters of the United States.
2. Admittance to the facility or construction site shall be requested at a reasonable time during normal working hours unless it is determined by the Storm Water Engineer that imminent and substantial danger exists.
3. The owner or operator shall make all necessary arrangements to allow access to the Storm Water Engineer.
4. In the event the owner or operator refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
5. The Storm Water Engineer retains the authority to collect samples and photographs from stormwater outfalls or other components of the MS4 as may be deemed appropriate in the administration and enforcement of this Ordinance.
6. The Storm Water Engineer shall have the authority to set up on subject facilities such devices as are necessary in the opinion of the Storm Water Engineer to conduct monitoring of the facilities stormwater discharge.
7. The Storm Water Engineer or the designated inspector must present appropriate credentials to the facility officials at the time of entry to a facility.

C. Review and modification of Stormwater Pollution Prevention Plans (SWP3).

1. The Storm Water Engineer retains the authority to request for review any documents or plans, including but not limited to SWP3, spill prevention control plans, hazardous material plans, and waste management documentation from a regulated facility or construction site that the Storm Water Engineer reasonably believes may affect stormwater discharges to the municipal stormwater drainage system.
2. The Storm Water Engineer may require an operator of a regulated facility or construction site to modify its SWP3 if, in the best professional judgment of the Storm Water Engineer, the SWP3 does not comply with the requirements of the facilities NPDES or TPDES permit to discharge stormwater associated with industrial or construction activity.
3. The deficiencies in a facility's SWP3 will be communicated in writing, and the Storm Water Engineer will provide the operator a reasonable amount of time, not to exceed thirty (30) days, to make the necessary changes in the SWP3.

D. Review and modifications of Best Management Practices (BMP's).

1. Any person engaged in activities or operation, or owning facilities or property, which will or may result in pollutants entering the MS4 or waters of the United States by means of wind and/or precipitation, shall implement BMP's to the MEP to prevent and reduce such pollutants. The owner or operator of a regulated facility shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or waters of the United States. Practices implemented to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.
2. The City of Lubbock will maintain a list of approved BMP's within the City of Lubbock's Drainage Criteria Manual. The Storm Water Engineer may request a demonstration of the effectiveness of implemented BMP's.
3. The Storm Water Engineer may require an operator of a regulated facility to modify its BMP's if, in the best professional judgment of the Storm Water Engineer, the BMP's do not provide effective protection from accidental discharge of prohibited materials or

other wastes from entering into the municipal stormwater drainage system or waters of the United States.

4. The deficiencies in a facilities BMP's will be communicated in writing, and the Storm Water Engineer will provide the operator a reasonable amount of time, not to exceed sixty (60) days, to make the necessary changes in the BMP's. Permit time requirements for controlling pollutants in runoff shall remain applicable.

E. Compliance with permit.

1. A facility or construction site shall be operated in strict compliance with the requirements of the subject TPDES permit to discharge stormwater associated with industrial or construction site activity.
2. A person commits an offense if the person operates a facility or construction site in violation of the requirements of the subject NPDES/TPDES permit to discharge stormwater associated with industrial or construction site activity.

## VIII. STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITY

A. Applicability. This section applies to all facilities located within the city limits or otherwise subject to the regulatory authority of the City of Lubbock that have stormwater discharges associated with construction activity.

B. General Requirements

1. All operators of construction sites shall use BMP's 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 the clearing, grading, excavation, and other construction activities to the MEP.
2. Operators shall minimize, to the extent practicable, the off-site vehicle tracking of sediments and the generation of dust. The SWP3 shall include a description of controls to accomplish this requirement.
3. The operator shall retain copies of any SWP3 and all reports required by this Ordinance or by the TPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three years from the date that the site meets the definition of Final Stabilization.

C. Submission of Notice of Intent and/or Construction Site Notice.

1. An operator of a construction site required to have a TPDES permit to discharge stormwater associated with construction activity shall submit a copy of the Notice of Intent (NOI) and construction site notice to the Storm Water Engineer contemporaneously with submittal of the original notice of intent to TCEQ as required by Part II.E.3 of the Construction General Permit.
2. The operator of a construction site, which does not require an NOI, is required to submit, per TCEQ's TPDES general permit for construction sites, a Construction Site Notice to the operator of the municipal stormwater drainage system.
3. If relevant information provided in the NOI changes, a Notice of Change (NOC) must be prepared and implemented in accordance with the requirements of the Construction General Permit or any individual or group TPDES permit issued for storm water discharges from the construction site. A copy of the NOC must be provided to the Storm Water Engineer within fourteen (14) days of discovery of the change.
4. Prior to the submittal of a Notice of Termination (NOT), the operator of the construction site shall first notify the Storm Water Engineer to request an inspection of the construction site for approval of Final Stabilization. After final inspection approval, the operator of the construction site shall submit to TCEQ and the Storm Water Engineer a Notice of Termination (NOT) that includes the information required by Part II Section F of the Construction General Permit.
5. If there is a transfer of ownership from the applicant to an owner occupant of a residential lot covered by a TPDES permit than a final inspection will be required. The applicant will also be required to submit documentation that the resident has been made aware of the requirements for proper stabilization of any remaining unstabilized portion of the residential lot.
6. The copy of the Notice of Intent and/or Construction Site Notice may be delivered to the Storm Water Engineer either in person or by mailing it to:

Notice of Intent to Discharge Stormwater  
Stormwater Management Department  
PO Box 2000  
Lubbock, Texas 79457

## IX. STORM WATER DISCHARGES FROM INDUSTRIAL ACTIVITY

- A. Applicability. This section applies to all facilities located within the city limits, or that are otherwise subject to the regulatory authority of the City of Lubbock, that have stormwater discharges associated with industrial activity.
- B. General Requirements. All operators of (1) municipal landfills; (2) other treatment, storage, or disposal facilities for municipal waste, including but not limited to transfer stations and incinerators; (3) hazardous waste treatment, storage, disposal, and recovery facilities; (4) industrial facilities that are subject to Section 313 of Title III of EPCRA; and (5) industrial or commercial facilities that the Storm Water Engineer reasonably determines are contributing a substantial pollutant loading to the MS4, which are sources of storm water discharges associated with industrial activity, shall comply with the following requirements:
1. Any operator requiring coverage for storm water discharge associated with industrial activity under the TPDES General Permit for Storm Water Discharges Associated with Industrial Activity (Industrial General Permit No. TXR050000) shall submit a signed copy of its Notice of Intent (NOI) to the Storm Water Engineer contemporaneously with submittal of the original NOI to the TCEQ. If industrial activity is already underway, the NOI shall be submitted to the Storm Water Engineer within thirty (30) days from the effective date of this Ordinance.
  2. If relevant information provided in the NOI changes, a Notice of Change (NOC) must be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES or TPDES permit issued for storm water discharges from the industrial facility. A copy of the NOC must be provided to the Storm Water Engineer within fourteen (14) days of discovery of the change.
  3. Where all storm water discharges associated with industrial activity that are authorized by this Ordinance, and by the TPDES permit for those discharges from industrial activities, are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the Storm Water Engineer a Notice of Termination (NOT) that includes the information required for Notices of Termination by Part II.C.6 of the Industrial General Permit.

4. The City's MS4 permit requires that all industrial facilities listed in Section IX. B. be subject to site inspections of no less frequently than once per permit term (5 years). The Storm Water Engineer retains the authority to inspect these industrial facilities as often as deemed necessary to assure permit compliance and safety of the MS4 and surface waters of the United States.
5. Industrial or commercial facilities that the Storm Water Engineer determines is contributing a substantial pollutant load to the MS4 shall submit self-monitoring data to the City on an annual basis. Submittal date of self-monitoring data shall be determined by the Storm Water Engineer.
6. An industrial facility may submit a "no exposure" certification to the City in lieu of self-monitoring; however, any facility operating under a "no exposure" certification is subject to periodic facility inspections (not less than once per permit term (5 years) to verify the facilities "no exposure" exemption. The inspection may be waived by the City for facilities that participate in the TCEQ's Small Business and Local Government Assistance Compliance Commitment Program.
7. The Storm Water Engineer retains the authority to conduct inspections on any industrial facility subject to the TCEQ's TPDES Multi-Sector General Permit or has been deemed to be , or has potential to be, contributing a substantial pollutant load to the MS4 in order to determine compliance and ensure safety of the MS4 and Waters of the United States.
8. Operators must submit monitoring results to the Storm Water Engineer upon his/her request for discharges subject to the semi-annual or annual monitoring requirements of Part III of the Industrial General Permit.
9. Copies of the NOI, NOC, NEC, NOT may be delivered to the Storm Water Engineer either in person or by mailing it to:

Notice of Intent to Discharge Stormwater  
Stormwater Management Department  
PO Box 2000  
Lubbock, Texas 79457

C. Facilities Operating with a TPDES or NPDES Individual Permit

1. The facility shall operate in accordance with all requirements of the appropriate TPDES or NPDES Individual Permit.

2. Upon inspection of the facility, the Storm Water Engineer may notify the operator or owner at any time that facility operations do not meet the requirements of the appropriate TPDES or NPDES Individual Permit or any additional requirements imposed by or under this Section or other City ordinances. Such notification shall be in writing and shall identify those provisions of the permit or Ordinance that are not being met, and clearly identify the changes necessary to meet such requirements. Within thirty (30) calendar days of such notification from the Storm Water Engineer, the operator or owner shall make the required changes and submit to the Storm Water Engineer a written certification that the changes have been implemented. If compliance is not achieved to the City's satisfaction, the City may, in its discretion, report the noncompliance to EPA and/or TCEQ, and/or the City may itself undertake any enforcement action authorized by Sections XII or XIII of this Ordinance. Exercise of the City's option for consultation under this Subsection shall not be a bar against, or prerequisite for, taking any other enforcement action against any owner or operator of the facility.
  
3. Copies of all sampling data and analyses reports required by the appropriate TPDES or NPDES Individual Permit shall be submitted to the Storm Water Engineer at the same time that such reports are submitted to the EPA or TCEQ, unless otherwise notified in writing by the Storm Water Engineer.

## X. ENFORCEMENT

### A. Enforcement responsibility.

The Storm Water Engineer or his designee shall have the responsibility for enforcement of the provisions of this Article. The duties of such designee shall include the responsibility of ensuring that all facilities and construction sites conform with this Article and to any other applicable state and federal laws, requirements and regulations of this Code of Ordinances, or otherwise of the City of Lubbock. The City Manager shall have the authority to adopt policies and procedures not inconsistent with the terms of this Article necessary to implement its provisions.

### B. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this Ordinance, will

be subject to the enforcement actions outlined in this Section or may be restrained by injunction or otherwise abated in a manner provided by law.

C. Nuisances.

1. An actual or threatened discharge to the MS4 or Waters of the United States that violates or would violate this Article shall be deemed a nuisance.
2. A line conveying sanitary sewage or designed to convey sanitary sewage that is connected to the MS4 or Waters of the United States shall be deemed a nuisance.
3. Any premises upon which mobile wash cleaning wastewater has accumulated and which is emitting noxious or offensive odors, or which is creating an unsanitary condition, or which is injurious to the public health or the environment, shall be deemed a nuisance.

D. Verbal Warnings.

The Storm Water Engineer shall retain the authority to provide a verbal warning and instruct an operator of a facility or a construction site that commits any acts prohibited by this Ordinance to achieve compliance as determined by the Storm Water Engineer. The Storm Water Engineer will provide a reasonable amount of time, but not more than sixty (60) days specific to the occurrence, to remedy the violation.

E. Notice of Violations.

If the Storm Water Engineer determines that there is an illicit discharge, a failure to maintain a facility or construction site in conformance with this Ordinance, or any other violation of this Ordinance, written notice shall be served upon the property owner or operator of record by registered or certified mail to the address of the property owner of record.

The notice shall specify the measures, as appropriate, required to attain full compliance with this Ordinance, and further shall specify the time within which such measures shall be completed. Failure by the property owner to comply within the time specified shall be deemed to be a violation of this Ordinance subject to the penalties outlined herein.

F. Stop Orders.

1. The Storm Water Engineer shall retain the authority to issue stop work orders for any construction site in violation of this Article.

2. Stop work orders: If the Storm Water Engineer determines that compliance subsequent to a Notice of Violation is not being attained, that a construction site is operating in a dangerous or unsafe manner, or that conditions exist at a construction site that may lead to an illicit discharge, upon written notice of an issuance of a stop work order, such work or conditions shall be immediately terminated or remedied. Written notice of such notice shall be provided to the owner, operator, and responsible party of the construction site and shall state the conditions under which work may be resumed. However, where an emergency exists which may result in discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to property, natural resources, wildlife, or habitat written notice shall be delivered as soon as practicable.

G. Penalties and violations.

1. Violations of provisions of this Article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with approval of variances) shall constitute an offense punishable by a fine not to exceed \$2000 per violation per day. Any person who violates this Article shall upon conviction thereof be fined in accordance with Section 1-4 General Provisions of this Code. Each day such violation continues shall be considered a separate offense.
2. The owner or operator of any facility, construction site, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
3. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

H. Appeals, Interpretation, & Variances.

1. Any appeals, interpretations or variances of the Storm Water Engineer shall first be to the Director of Public Works, then to the Permit and License Appeal Board, then to a court of competent jurisdiction, including municipal court.
2. Written request for an appeal, interpretation or variance of an administrative decision must be made within ten (10) days of receipt of violation or claim.

## XI. JUDICIAL ENFORCEMENT REMEDIES

### A. Injunctive Relief.

When the Storm Water Engineer finds that a person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, the Storm Water Engineer may petition any court of competent jurisdiction, as appropriate, which restrains or compels the specific performance by that person of any requirement imposed by this Ordinance or any order issued hereunder. The Storm Water Engineer may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for a violator to conduct environmental remediation, abatement, or restoration. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a violator.

### B. Penalties.

1. Any person who has violated any provision of this Ordinance, or any order issued hereunder, shall, upon conviction, be punishable by a fine not to exceed two thousand dollars (\$2,000.00) per violation per day, or any greater fine that is authorized by State law, as provided by Section 1-4 General Provisions of this Code.

### C. Civil Suit Under the Texas Water Code.

Whenever it appears that a violation of any provision of Section 26.121 of the Texas Water Code, or any rule, Permit, or order of the TCEQ, has occurred or is occurring within the jurisdiction of the City of Lubbock, 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 attorney, for the injunctive relief or civil penalties or both authorized in Chapter 7 of the Texas Water Code, against the person who committed or is committing or threatening to commit the violation. This power is exercised pursuant to Chapter 7 of the Texas Water Code, and in suits brought thereunder, the TCEQ shall be a necessary and indispensable party.

### D. Remedies Nonexclusive.

The remedies provided for in this Ordinance are not exclusive. The City may take any, all, or any combination of these actions against a violator. The City is empowered to take more than one enforcement action against any violator. These actions may be taken concurrently. All remedies are cumulative.

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed an offense punishable by such fine as is provided by the general laws of the State of Texas for municipal courts provided however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the State. Each day of any violation of this Ordinance shall constitute a separate offense.

SECTION 3. THAT should any section, paragraph, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT any other City of Lubbock ordinance or parts thereof in conflict herewith, are hereby repealed.

SECTION 5. THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method of publication provided by law.

AND IT IS SO ORDERED

Passed by the City Council on first reading this 6th day of November, 2008.

Passed by the City Council on second reading this 20th day of November, 2008.

  
TOM MARTIN, MAYOR


ATTEST:

  
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

  
Michael Keenum, Storm Water Engineer

APPROVED AS TO FORM:

  
Mitchell Satterwhite, Assistant City Attorney