ORDINANCE NO. 1095-11-12-13

AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PFLUGERVILLE, TEXAS BY ADDING CHAPTER 158, STORM WATER POLLUTION CONTROL ORDINANCE; REGULATING THE DISCHARGE OF POLLUTANTS INTO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OR CONVEYANCES; ESTABLISHING A FINE OF NO MORE THAN $2,000 FOR ANY VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Whereas, Chapter 26 of the Texas Water Code and Chapter 402 of the Clean Water Act provides for Regulation of Storm Water Pollution Control; and

Whereas, it is the intent of this Ordinance to maintain and improve the quality of surface water and groundwater within the City of Pflugerville and the State of Texas; and

Whereas, it is the intent of this Ordinance to facilitate compliance with state and federal water quality standards, limitations, and permits by owners and operators of industrial activities and construction sites within the City; and

Whereas, it is the intent of this Ordinance to prohibit the discharge of contaminated storm water runoff from industrial, commercial, residential and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the City of Pflugerville; and

Whereas, it is the intent of this Ordinance to prohibit and focus on eliminating illicit discharges to the MS4, require construction site best management practices for erosion and sediment controls within the MS4, require development requirements to regulate discharges from new development and redevelopment projects within the MS4; and

Whereas, it is the intent of this Ordinance to allow for the establishment of programs and procedures to address maintenance and inspection of properties discharging into the MS4 and sampling of such discharges; and

Whereas, this Ordinance could eventually lead to establishing a storm water utility fee for drainage projects within the MS4 should it be warranted in the future.

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

Section 1. General.

Chapter 158, entitled STORM WATER POLLUTION CONTROL ORDINANCE is hereby added to the City of Pflugerville, Texas, Code of Ordinances, as set forth on Exhibit "A" attached hereto.

Section 2. Severability.

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 3. Effective Date.

This Ordinance will become effective upon its adoption, passage by the City Council in accordance with the procedures in Section 3.15(b) of the City Charter and on the date of passage as required by Section 3.15(b) of the City Charter and publication as required by law.

PASSED AND APPROVED this 13 day of December, 2011.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Jeff Coleman, Mayor

ATTEST:

_____
Karen Thompson, City Secretary

ATTEST AS TO FORM:

_____
City Attorney

Exhibit "A"

CHAPTER 158: STORM WATER POLLUTION CONTROL ORDINANCE

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STORM WATER POLLUTION PREVENTION CONTROL

GENERAL PROVISIONS

§158.01 SHORT TITLE

This chapter shall be known, and may be cited, as the Storm Water Pollution Control Ordinance of the City of Pflugerville, Texas.

§158.02 ADMINISTRATION

The City Engineer shall implement and enforce the provisions of this Chapter, except for public works construction projects and municipal operations that are administered or controlled by another City department. For public works construction projects that are administered, performed, contracted, or funded (in whole or in part) by the City, the Director of the City Department that is administering, performing, or contracting for the construction project shall implement and enforce the provisions of this Chapter. The Director of each City department shall also implement and enforce the provisions of this chapter for all municipal operations under his/her direction. Any powers granted to or duties imposed in this Chapter upon the City Engineer or the Director of another City department may be delegated by him/her to other City personnel.

§158.03 ABREVIATIONS

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

BMP	- Best Management Practices
BOD	-Five Day Biochemical Oxygen Demand
CFR	-Code of Federal Regulations
COD	-Chemical Oxygen Demand
CSCE	-Comprehensive Site Compliance Evaluation
CWA	- Clean Water Act
City	-City of Pflugerville
EPA	-U.S. Environmental Protection Agency
EDGCS	-Engineering Design Guidelines and Construction Standards
HHW	-Household Hazardous Waste
LPE	-Licensed Professional Engineer
Mg/l	-Milligrams per liter
MEP	-Maximum Extent Practicable
MS4	-Municipal Separate Storm Sewer System
MSGP	-Multi-Sector General Permit
NEC	-No Exposure Certification
NOC	-Notice of Change
NOI	-Notice of Intent
NOT	-Notice of Termination

PCMOM	-Post-Construction Maintenance and Operation Manual
ESCP	-Erosion and sedimentation control plan
pH	-Measure of Acidity or Alkalinity
POTW	-Publicly Owned Treatment Works
PPM	-Parts per million
PST	-Petroleum Storage Tank
SWPPP	-Storm Water Pollution Prevention Plan
TCEQ	-Texas Commission on Environmental Quality
TPDES	-Texas Pollutant Discharge Elimination System
TSS	-Total Suspended Solids
USC	-United States Code

§158.04 DEFINITIONS

For the purposes of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning. Terms not defined herein shall be construed in accordance with customary usage.

BEST MANAGEMENT PRACTICES (BMPS). Methods that have been determined to be the most effective, practical means of preventing or reducing pollution from non-point sources, such as pollutants carried by urban runoff. These methods can be structural (e.g., devices, ponds, engineered or constructed to prevent or manage storm water) or non-structural (e.g., policies to reduce imperviousness). BMPs classified as "non-structural" are those that rely predominantly on behavioral changes rather than construction in order to be effective. "Structural" BMPs are engineered or constructed to prevent or manage storm water.

BMPs also include 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.

CERTIFIED STORMWATER INSPECTOR. This is a person knowledgeable in the principles and practices of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion controls measures selected to control the quality of stormwater discharges from the construction site.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

COMMENCEMENT OF CONSTRUCTION. The initial disturbance of soils associated with clearing, grading, excavating, landfilling, and other construction activities.

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

CONSTRUCTION ACTIVITY. Activities associated with the disturbance of soils or other earthen materials including, but not limited to, clearing and grubbing, grading, excavating, and demolition or other construction activities.

CONTAMINATED. Containing a harmful quantity of any substance.

CONVEYANCE. Including, but not limited to stream, channel, drainage way, tributary, floodplain, storm drainage system, drainage system appurtenance, waterbody, watercourse, or waterway.

DIRECTOR. City Manager or designee, who shall serve as an authorized representative of the City of Pflugerville, that is responsible for administering, performing, or contracting for the construction project.

DISCHARGE. Any addition or introduction of any substance into the Municipal Separate Storm water Sewer System (MS4).

DISCHARGER. Any person who causes, allows, permits, or is otherwise responsible for a discharge, including, but not limited to, any operator of a construction site of industrial facility.

ENGINEERING DESIGN GUIDELINES AND CONSTRUCTION STANDARDS The City of Pflugerville guidelines pertaining to the City's Engineering practices and standard details that conform to the City's Comprehensive Master Plan as well as City standards, codes, and ordinances.

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

EROSION AND SEDIMENTATION CONTROL PLAN (ESCP). A site plan that contains the following information:

- The outline of the site.
- A delineation of the area of the site that will be disturbed by construction activities.
- The general direction of flow of storm water drainage entering and leaving the site. If the drainage patters will be altered, both the existing and proposed drainage patterns shall be shown.

- A description of how run-on storm water will be handled, including sheet flow entering the site from adjoining property.

- A description and the location of any environmentally sensitive area that is located on the site or that adjoins the site and that will receive storm water directly from the site.

- The boundary line between the site and any adjoining state-owned submerged land. A preliminary boundary line may be used with a preliminary plat. The ESCP shall be amended prior to filing of a final plat, once a final boundary determination has been approved by the General Land Office to reflect any difference between the preliminary boundary line and the approved boundary line.

- The location of any Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map 100-year floodplain boundaries, floodway boundaries, or FEMA Velocity Zone boundaries that encroach on the site. A preliminary boundary line may be used with a preliminary plat. The ESCP shall be amended prior to filing of a final plat, once a final boundary determination has been made.

- A description and location of all temporary control measures that will be implemented during construction to control erosion, sedimentation, and the discharge of pollutants into the City's MS4.

A description of permanent control measures that will be constructed to control erosion, sedimentation, and the discharge of pollutants into the City's MS4 after construction is completed.

EXTREMELY HAZARDOUS SUBSTANCE. Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

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

FERTILIZER. A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

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 90% of the cover for unpaved areas and areas not covered by permanent structures have been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

GARBAGE. Putrescible animal and vegetable waste materials form the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

HARMFUL QUANTITY. The amount of any substance due to volume or concentration that will cause pollution.

HAZARDOUS MATERIAL. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. This term shall include household hazardous wastes as classified under 40 CFR Part 261, hazardous substances as listed in Table 302.4 of 40 CFR Part 302, and hazardous wastes identified or listed by the EPA pursuant to 40 CFR Part 261.

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

HOUSEHOLD HAZARDOUS WASTE. Any solid waste generated in a household by a consumer including, but not limited to, products, such as paints, cleaners, oils, batteries, and pesticides that contain potentially hazardous ingredients that require special care upon disposal.

ILLICIT CONNECTION. Any connection to the MS4 or conveyances that allows for an illicit discharge.

ILLICIT DISCHARGE. Any direct or indirect discharge of pollutant to the MS4 or conveyances, except as specifically exempted in this chapter.

INDUSTRIAL ACTIVITY. Any activity at an industrial facility described by the TPDES MULTI SECTOR GENERAL PERMIT, TXR050000, or by any other TCEQ or TPDES permit including, but not limited to, manufacturing, processing, materials storage, and waste materials disposal.

INDUSTRIAL WASTE. Waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or domestic wastewater, or distinct from domestic wastewater.

LICENSED PROFESSIONAL ENGINEER (LPE). A person who has been duly licensed (and registered if practicing as an individual) by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas.

MAXIMUM EXTENT PRACTICABLE. The technology-based discharge standard for MS4s established by Section 402(p) of the Federal Clean Water Act.

MOTOR VEHICLE FLUIDS. Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.

MUNICIPAL OPERATIONS. The day to day operation and maintenance activities that have the potential for contributing pollutant runoff to the MS4.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). The storm drainage system operated and maintained by the City of Pflugerville, Texas, which is comprised of the following: the system of conveyances (including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water.

NON-STORM WATER DISCHARGE. Any discharge to the MS4 that is not composed entirely of storm water runoff.

NOTICE OF CHANGE (NOC). The Notice of Change that is required by the TPDES General Permit related to storm water discharges associated with industrial activity.

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

NOTICE OF TERMINATION (NOT). The Notice of Termination that is required by either the Construction General Permit, the TPDES General Permit for industrial activity, or other General Permit for the discharge of storm water.

OIL. Any kind of oil in any form, including but not limited to, petroleum, fuel oil, crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste. This term shall include used oil that 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.

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

OWNER. The person who owns a facility or part of a facility.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, lessees, or assigns. This term shall also include all federal, state, and local governmental entities.

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

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

POLLUTION. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface 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.

POST-CONSTRUCTION MAINTENANCE AND OPERATION MANUAL. The City of Pflugerville document which serves as guidance to assist users in establishing proper erosion and pollution control measures to be used during the maintenance and operations of facilities. It outlines the City's procedures for complying with water quality regulations, and guides in the selection of BMPs for post-construction maintenance activities and facilities operations related to MS4.

QUALIFIED PERSONNEL. Persons who possesses 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.

RELEASE. The act of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 or conveyances.

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

STATE. The State of Texas.

STORM WATER. Any surface flow, runoff, and discharge consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable (MEP).

SURFACE WATER IN THE STATE. 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 (MHWM) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, 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 that are created for the purpose of waste treatment are not considered to be water in the state.

SUSPENSION ORDER. A written document authorized by the Director revoking MS4 discharge access.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ). The State of Texas agency by that name, the regional offices thereof, any state department, agency, or commission that may succeed to the authority of the TCEQ, and any duly authorized official of TCEQ or such successor agency.

TEXAS POLLUTION DISCHARGE ELIMINATION SYSTEM (TPDES). The program delegated to the State of Texas by the EPA pursuant to 33 USC §1342(b).

TPDES GENERAL PERMIT RELATING TO STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY. General Permit No. TXR150000 issued by TCEQ on February 15, 2008, as authorized under provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code.

TPDES MULTI-SECTOR GENERAL PERMIT RELATING TO STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY. TPDES General Permit No. TXR050000 issued by TCEQ on July 22, 2011, and effective August 14, 2011, as authorized under provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code.

WASHWATER. Any water containing pollutants from the act of cleaning parking lots, vehicles, or building exteriors.

WATERCOURSE. Any defined creek, stream, ditch, arroyo, or other natural conveyance that is capable of passing storm water across property and onto adjacent property. A watercourse shall have observable banks, and is either a natural conveyance or an artificially

altered natural conveyance. A conveyance that is contained wholly within a single property and does not convey storm water off the property onto adjacent property is not considered to be a watercourse for purposes of this ordinance.

WATERS OF THE UNITED STATES. Defined by the 33 CFR Part 328, all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States."

WATER QUALITY STANDARD. The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the State to be necessary to protect those uses, as specified in Chapter 307 of Title 30 of the Texas Administrative Code.

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

YARD WASTE. Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land clearing operations.

ILLICT DICHARGE PREVENTION

§158.21 APPLICATION OF REGULATIONS

Effective February 1, 2012 the regulations set out in this chapter shall apply to all areas of the MS4 within the corporate limits of the city.

§158.22 MINIMUM STANDARDS

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§158.23 DISCHARGE PROHIBITIONS

(A) *Prohibition of Illegal Discharges.* No person shall discharge or cause to be discharged into the municipal storm sewer system (MS4) or conveyances any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water or authorized non-storm water discharges.

(B) *Exemptions.* The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance:

(a) water line flushing or other potable water sources,

(b) landscape irrigation or lawn watering,

(c) diverted stream flows,

(d) rising ground waters,

(e) uncontaminated ground water infiltration to storm drains,

(f) uncontaminated pumped ground water,

(g) foundation or footing drains (not including active groundwater dewatering systems),

(h) crawl space pumps,

(i) air conditioning condensation,

(j) springs,

(k) non-commercial washing of vehicles,

(l) natural riparian habitat or wet-land flows,

(m) swimming pools (if dechlorinated - less than one PPM chlorine),

(n) firefighting activities,

(o) and any other water source not containing Pollutants.

(2) Discharges specified in writing by the city as being necessary to protect public health and safety are exempt from discharge prohibitions.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the city prior to the time of the test.

(4) The prohibition shall not apply to any non-storm water discharge permitted under a TPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations MS4.

(C) *Specific Prohibitions*

(1) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition.

(2) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4 or conveyances:

(a) Any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other such construction activities, or associated with landfilling or other placement of soil, rock, or other earthen materials.

(b) Any motor oil, antifreeze, or any other motor vehicle fluid.

(c) Any industrial waste.

(d) Any hazardous material, including household hazardous waste, hazardous substances, and hazardous waste.

(e) Any wastewater or septic tank waste, grease trap waste, or grit trap waste.

(f) Any garbage, trash, or yard waste, including brush, leaves, grass clippings, or other yard waste previously gathered for disposal.

(g) Any washwater from a commercial car wash facility or from any vehicle washing, cleaning, or maintenance at any automotive-related facility.

(h) Any contaminated runoff from a vehicle salvage yard or storage yard.

(i) Any pavement washwater from a service station unless such washwater has passed through a properly functioning and maintained grease, oil, and sand separator before discharge into the MS4 or conveyance.

(j) Any ready-mix concrete, mortar, ceramic, or asphalt base material or hydromulch material, or material from the cleaning of vehicles or equipment containing, or used in transporting or applying, such materials.

(k) Any swimming pool, fountain, or spa water, including backwash water, containing total residual chlorine of 1 ppm or more or containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.

(l) Any introduction of oil into the environment including oil applied to a road or land for dust suppression, weed abatement, or other similar use, or any direct disposal of oil on land or into the MS4 or conveyances.

(m) Any washwater from parking garage pavement cleaning, unless such washwater has passed through a properly functioning and maintained grease, oil, and sand separator before discharge into the MS4 or conveyance.

(D) *Prohibition of Illicit Connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

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

(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

§158.24 SUSPENSION OF MS4 ACCESS.

(A) *Suspension due to Illicit Discharges in Emergency Situations.* The City of Pflugerville may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, Surface Waters in the State, or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Director or his/her designee may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

(B) *Suspension due to the Detection of Illicit Discharge.* Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. The violator may petition the city for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the city.

§ 158.25 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

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

§ 158.26 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have storm water discharges associated with industrial activity or construction activity. Nothing in this section relieves facility and construction site operators of responsibilities to obtain appropriate coverage under general or individual permits through the TCEQ and to notify or otherwise report to the TCEQ in accordance with any such permit. Further, nothing in this section implies that the City is assuming the duties of the TCEQ or EPA for inspection or monitoring of activities required under the TPDES permitting system.

(B) *Access to Facilities.*

(1) The Director or his/her designees shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the city.

(2) Facility operators shall allow the Director or his/her designees ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that shall be kept under the conditions of an TPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Director or his/her designees shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Director to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Director or his/her designees shall have the right to require the discharger to install monitoring equipment as necessary. 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 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 operator at the written or oral request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Director or his/her designees access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a TPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(7) If the Director or his/her designees has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

§ 158.27 WATERCOURSE PROTECTION.

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

§ 158.28 NOTIFICATION OF SPILLS.

(A) *Hazardous Spills.* Notwithstanding other requirements of this chapter, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that result in, or may result in, illegal discharges or pollutants discharging into storm water, the MS4, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and

cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

(B) *Non-Hazardous Spills.* In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years

§ 158.29 ENFORCEMENT.

(A) *Notice of Violation.* Whenever the Director or his/her designee finds that a person has violated a prohibition or failed to meet a requirement of this chapter, he/she may order compliance by written "Notice of Violation" to the responsible person by regular and certified mail, return receipt requested. If the return receipt is not completed, receipt of the notice is presumed after ten (10) calendar days. Within twenty (20) days of mailing of such "Notice of Violation" by certified mail return receipt requested, the alleged violator shall submit to the Director a written explanation of the violation and a written plan for the satisfactory correction and prevention of recurrence thereof, including specific required actions.

(B) *Mandatory Compliance Order.* When the Director or his/her designee finds that any discharger has violated, or continues to violate, any provision of the chapter, or any order issued hereunder, the Director may issue a "Mandatory Compliance Order" to the violator by regular and certified mail, return receipt requested. If the return receipt is not completed, receipt of the notice is presumed after ten (10) calendar days.

A "Mandatory Compliance Order" may not extend the deadline for compliance established by a state or federal standard or requirement or otherwise alter such an order, nor shall it relieve the violator of liability for any violation, including any continuing violation. The issuance of a "Mandatory Compliance Order" shall not be a bar against, or a prerequisite for, taking any other action against the violator or any responsible party. The "Mandatory Compliance Order" may constitute the ordering of any one or more of the following:

(1) Compliance within Time Limit. Directing that the violator come into compliance within a specified time limit. Such an order also may contain other requirements to address non-compliance, including additional self-monitoring and management practices designed to mitigate the amount of pollutants discharged to the MS4 or conveyances.

(2) Remediation, Abatement, and/or Restoration.

(a) Directing that the violator, if the violation has adversely affected the MS4 or conveyances thereof, undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4 or conveyances, and/or to restore

any part of the MS4 or conveyances that have been harmed. Such remedial, abatement, and restoration action may include, but shall not be limited to:

(i) Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement and/or restoration action;

(ii) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollutant or contamination;

(iii) Prevention, minimization, and/or mitigation of any damage to the public health, safety, welfare, or the environment that may result from the violation;

(iv) Restoration or replacement of City property or natural resources damaged by the violation.

(b) Any expenses related to the remediation, abatement, and/or restoration incurred by the City shall be fully reimbursed by the person deemed responsible by the Director. If the amount due is not paid within a timely manner, as determined by decision of the City, then the charges shall become a special assessment against the property and shall constitute a lien for the amount of the assessment.

(3) Emergency Cease and Desist Order.

(a) The "Emergency Cease and Desist Order" directs that the violator immediately cease and desist from all violations if the violations have caused or contributed to an actual or threatened discharge to the MS4 or any conveyances which reasonably appears to present an imminent or substantial endangerment to the health, safety, or welfare of persons or to the environment; or if past violations are likely to recur. The "Emergency Cease and Desist Order" may also direct the violator to immediately comply with all chapter requirements and take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(b) Any violator notified of an "Emergency Cease and Desist Order" shall immediately comply and stop or eliminate the endangering discharge. In the event of the violator's failure to immediately comply voluntarily with the "Emergency Cease and Desist Order", the Director and his/her designees may take such steps as deemed necessary to prevent or minimize harm to the MS4 or conveyances, and/or endangerment to persons or to the environment. Any expenses related to the remediation, abatement, and/or restoration incurred by the City shall be fully reimbursed by the person deemed by the Director to be responsible. If the amount due is not paid within a timely manner, as determined by decision of the City, then the charges shall become a special assessment against the property and shall constitute a lien for the amount of the assessment.

(c) The City may allow the violator to recommence its discharge when it has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless further termination proceedings are initiated against the violator under this chapter. A

violator that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Director describing the causes of the harmful discharge and the measures taken to prevent any further occurrence within five (5) days of receipt of the "Emergency Cease and Desist Order". Nothing in this section shall negate the right of the City to obtain compliance by suit, including a suit for enforcement pursuant to Texas Local Government Code Chapter 54, as amended.

(4) Construction Stop Work Order. Whenever the Director or his/her designees find that any operator of a construction site has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the Director may order that a "Construction Stop Work Order Regarding Illicit Discharge" be issued to the operator or person responsible, posted at the construction site, and distributed to all City departments whose decisions affect any activity at such site. Unless express written exception is made by the City, the "Construction Stop Work Order Regarding Illicit Discharge" shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the City associated with a building permit, grading permit, or any other City authorization necessary to commence or continue construction or to assume occupancy at the site. Issuance of a "Construction Stop Work Order Regarding Illicit Discharge" shall not be a hindrance to, or a prerequisite for, taking any other action against the violator. When a violation or violations of this chapter that have resulted in a "Construction Stop Work Order Regarding Illicit Discharge" being issued have been resolved or mitigated to the satisfaction of the Director or his/her designees, the operator of the construction site may resume work on the site. The Director will provide written notice to the operator that the conditions that resulted in the Construction Stop Work Order Regarding Illicit Discharge have been resolved.

Upon resolution of the violation, the Director shall submit a written commence work operations to the operator of a construction site. The operator shall be permitted to begin work within the time as designated by the Director or his/her designees and no further actions shall be taken unless a violation occurs.

§ 158.30 COST OF ABATEMENT OF THE VIOLATION.

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

§ 158.31 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this ordinance, the City of Pflugerville may petition for a preliminary or permanent injunction

restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 158.32 PENALTY.

Any person or corporation that has violated or continues to violate any of the provisions of this chapter, or who fails to comply herewith or with any of the requirements hereof, shall be subject to a maximum fine of not more than $2,000 for each day any such violation shall continue. A Civil penalty may be assessed under Chapter 54 of the Texas Local Government Code ranging up to $10,000 per day in addition to the criminal penalties, depending on the circumstances, as provided by State law.

(A) Each violation shall be considered a separate offense. The owner or owners of any property or premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, and any architect, engineer, builder, contractor, agent, person, or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense, and upon conviction thereof, shall be fined as herein provided.

The Director or his/her designees will submit a written violation to all persons corporation in association with the property or premises and separate offenses shall be determined accordingly.

(B) Nothing herein contained shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation of this chapter.

CONSTRUCTION SITE STORM WATER MANAGEMENT

§ 158.41 CONSTRUCTION REQUIREMENTS AND CONTROL MEASURES

Operators of public or private "construction activities" shall be required to select, install, implement, and maintain storm water control measures that comply with City of Pflugerville Engineering Design Guidelines and Construction Standards (EDGCS), TPDES Construction General Permit, TPDES MS4 General Permit, or other ordinances that may apply to construction activities. Construction activities include, at a minimum, all public and private construction sites. The Operator shall ensure the following minimum requirements are effectively implemented:

(A) *Planning Requirements for Site Development during Construction.*

(1) Development of sites one (1) acre or more.

(a) An NPDES or TPDES storm water pollution prevention plan is currently required by EPA or TCEQ for all construction projects where one (1) or more acres will be disturbed during development. Developments of sites that disturb one (1) acre or more within the City's jurisdiction shall prepare an NPDES or TPDES storm water pollution prevention plan stat satisfies EPA or TCEQ regulations and the NPDES or TPDES construction general permit.

(i) A copy of the NPDES or TPDES storm water pollution prevention plan shall be provided to the City's Engineer.

(ii) A copy of any notice of intent (NOI) provided to EPA or TCEQ shall be provided to the City Engineer. Approval of the elements of the NPDES or TPDES storm water pollution prevention plan is not required by the City Engineer. However, the City Engineer or to his/her designee(s) of other City personnel may require correction of any deficiencies in the NPDES or TPDES storm water pollution prevention plan, and may require additional measures in order to meet the minimum requirements of the pollution control measures section below.

(iii) A copy of any notice of termination (NOT) submitted to EPA or TCEQ shall be provided to the City Engineer.

(b) If the site is one (1) acre or more, but less than one (1) acre and more than one-quarter (1/4) acre will be disturbed, an NPDES or TPDES storm water pollution prevention plan is not required, but an erosion and sedimentation control plan as defined in the definition section, is required, unless the site is a single-lot, single-family residential construction that is not part of a larger development that requires an NPDES or TPDES permit.

(2) Development of sites less than one (1) acre and more than one-quarter (1/4) acre.

(a) An erosion and sedimentation control plan, as defined in the Engineering Design Guidelines is required for commercial construction, industrial construction, multifamily residential construction, and development of a residential subdivision within the City's jurisdictional area where less than one (1) acre but more the one-quarter (1/4) acre will be developed. The area of the development will be based upon the platted lot area or, if not platted, upon the area of the tract owned by the developer, including all contiguous property by the same person. Disturbance of a partial area of a tract is not a condition that will cause a change of the category in development size.

(b) Submission of a site-specific erosion and sedimentation control plan is not required for a single-lot, single-family residential construction, unless it is part of a larger development that requires an NPDES or TPDES permit.

(c) The erosion and sedimentation control plan shall include any measures as required to comply with the pollution control measures section below. An erosion and sedimentation control plan shall be submitted to the City Engineer for review before issuance of a building permit or approval to begin development.

(d) Implementation of the pollution control measures detailed in the plan is required. (Inspection of the status of the pollution control measures will be performed by City personnel during normal construction inspection and at other times when construction activities may be conducted).

(e) A certificate of occupancy will not be issued until the City Engineer is satisfied that all temporary and permanent measures specified by the plan are complete.

(f) The City shall not accept any public improvements until all temporary and permanent measures specified by the plan are complete, unless the responsible party has entered into a maintenance agreement with the City.

(g) An erosion and sedimentation control plan is not required when a portion of a previously developed tract of land is redeveloped, unless the redevelopment will result in the conversion of more than one-quarter (1/4) acre from a porous surface to an impervious surface.

(3) Development of sites one-quarter (1/4) acre or less and single-lot, single-family residential construction. A site-specific erosion and sedimentation control plan is not required for the development of sites which are one-quarter (1/4) acre in size or less, nor for single-lot, single-family residential construction. However, the responsible party shall comply with the pollution control measures in section.

(a) In order to obtain a building permit, a responsible party shall provide written acknowledgement that the responsible party is aware of the pollution control measures of the City and that the responsible party will comply with these measures during the development of the property.

(b) In order to obtain a certificate of occupancy, a responsible party shall certify that all necessary temporary or permanent pollution control measures specified in the pollution control measures section are in place. If adequate pollution control measures are not in place, the Building Official is authorized to withhold the certificate of occupancy.

(c) Prior to requesting acceptance of any public improvements required under Subchapter 15, Acceptance of Subdivision as complete, of the Unified Development Code, a responsible party must certify that all necessary permanent pollution control measures, other than the required stabilization, are in place. If adequate pollution control measures are not in place, the City Engineer will not accept any improvement required by Subchapter 15 of the Unified Development Code unless the responsible party has entered into a maintenance agreement with the City.

(4) For purposes of this section, the entire plat or site shall be considered to be the area being disturbed unless otherwise specified within the site plan. The responsible party shall take appropriate measures to ensure no construction related activities disturb any area that is not designated as disturbed on the plat or site plan.

B. *Special Land Use Requirements.*

(1) Any plans submitted for a building permit for the development of property that will be used for one of the following uses shall identify the appropriate best management practices, published in the City of Pflugerville Engineering Design Guidelines and Construction Standards that the responsible party will adopt to prevent pollutants associated with the use from being discharged into the City's MS4.

(a) Fueling stations

(b) Vehicle/equipment washing and steam cleaning facilities

(c) Facilities engaged in harmful liquid materials loading and unloading

(d) Facilities engaged in container storage in aboveground tanks

(e) Facilities engaged in container storage of harmful liquids (such as oil, chemicals, and hazardous wastes)

(f) Facilities engaged in outdoor storage of raw materials that are subject to leaching and transport by erosion and sedimentation, such as gravel, sand, topsoil, compost, sawdust, wood chips, building materials, including lumber, which are subject to leaching; and concrete and metal products, which are subject to chemical erosion, corrosion, and leaching

C. *Pollution Prevention Measures.* Design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures shall be designed, installed, implemented and maintained to:

(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters shall be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to storm water, and,

(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

D. *Prohibited Discharges.* The following discharges are prohibited:

(1) Wastewater from washout of concrete vehicles, unless managed by an appropriate control;

(2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;

(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and,

(4) Soaps or solvents used in vehicle and equipment washing.

§ 158.42. CONSTRUCTION SITE INSPECTIONS AND ENFORCEMENT

A. All sites requiring a site development or construction permit that discharge to a tributary listed by the state as an impaired water for sediment or turbidity under the CWA section 303(d), and other sites as determined by the City or permitting authority to be a significant threat to water quality, shall be subject to inspection by the Director or his/her designees prior to land disturbance, during active construction, and following active construction, within the requirements as referenced in the Engineering Design Guidelines.