

ORDINANCE NO. 2015-62

AN ORDINANCE OF THE CITY OF GEORGETOWN, TEXAS ADDING CHAPTER 13.30 TITLED "ILLICIT DISCHARGES OF POLLUTANTS INTO THE MS4 OR CONVEYANCES" OF THE CITY OF GEORGETOWN CODE OF ORDINANCES; REPEALING SECTIONS 12.04.010 AND 12.04.020 OF THE CODE OF ORDINANCES AND OTHER CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING 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 Georgetown 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 Georgetown; 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, the City is authorized to prohibit illicit discharges and illicit connections in accordance with Chapter 26, Texas Water Code, the City Charter, and TPDES Phase II MS4 Permit TXR040000; and

WHEREAS, the provisions of Chapter 13.30 as attached comply with requirements and will help to protect the MS4 and conveyances from pollutants; and

WHEREAS, Sections 12.04.010 and 12.04.020 of the Code of Ordinances conflict with the provisions of Chapter 13.30.

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

SECTION 1: The facts and recitations contained in the preamble of this Ordinance are hereby declared to be true and correct, and are incorporated by reference herein and made a part hereof, as if copied verbatim. The City Council hereby finds that this Ordinance is consistent with the comprehensive plans of the City.

SECTION 2: Chapter 13.30 is hereby added to the Code of Ordinances as shown in Exhibit A.

SECTION 3: Sections 12.04.010 and 12.04.020 of the Code of Ordinances are hereby repealed.

SECTION 5: All Ordinances and Resolutions, or parts of Ordinances and Resolutions that are in conflict with this Ordinance are hereby repealed, and no longer in effect.

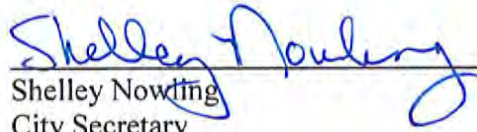
SECTION 6: If any provisions of this Ordinance or application thereof to any person or circumstance, shall be held invalid, such invalidity shall not affect the other provisions, or applications thereof, of this Ordinance which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 7: The Mayor is hereby authorized to sign this ordinance and the City Secretary to attest. This Ordinance shall become effective and be in full force and effect on March 1, 2016 in accordance with the provisions of the Charter of the City of Georgetown.

PASSED AND APPROVED on First Reading on the 24 day of Nov, 2015.

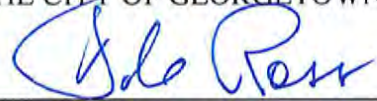
PASSED AND APPROVED on Second Reading on the 8 day of Dec. 2015.

ATTEST:



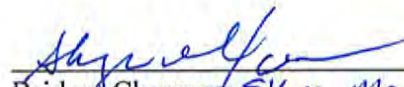
Shelley Nowling
City Secretary

THE CITY OF GEORGETOWN:



Dale Ross
Mayor

APPROVED AS TO FORM:



~~Bridget Chapman~~ Skye Masson
~~City Attorney~~ Asst. City Attorney

EXHIBIT A

CHAPTER 13.30. - ILLICIT DISCHARGES OF POLLUTANTS INTO THE MS4 OR CONVEYANCES

Sec. 13.30.010 - Applicability.

This chapter shall be applicable to all areas of the MS4 within the corporate limits of the City.

Sec. 13.30.020 - Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this definitions section, except when the context otherwise requires. Whenever any words and phrases used herein are not defined herein but are defined in the federal and state laws regulating illicit discharge, any such definition therein shall be deemed to apply to such words and phrases used herein, except when the context otherwise requires.

Best Management Practices (BMP). 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). BMP 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. BMP 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.

Calendar day. When the term "day" is used herein, unless specifically defined otherwise, the term shall mean any day of the week, including Saturdays, Sundays, and legal holidays, with no days being excepted.

General Manager means the city employee fulfilling the duties of and holding the title of General Manager of Utilities, or similar subsequent title designation, or designee.

City staff means employees of the City, authorized to act on the City's behalf by the General Manager.

Construction activity means soil disturbance, including clearing, grading, and excavating; and not including 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). Regulated construction activity is defined in terms of small and large construction activity.

Conveyance means any of the following, by way of illustration and not limitation: Stream, channel, drainage way, drainage/dry well, ephemeral stream, floodplain, karst feature, storm drainage system, drainage system appurtenance, waterbody, watercourse or waterway, curbs,

gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

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

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

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

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

Fire department means the Fire Department of the City of Georgetown, Texas, and any other fire departments with which the City of Georgetown has mutual assistance or mutual aid agreements.

Fire protection water means any water, and any substances or materials contained therein, used by any person other than the fire department to control or extinguish a fire.

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

Harmful quantity means the amount of any substance due to volume or concentration that will cause pollution.

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

Illicit connection means any connection to the MS4 or conveyances that allows for an illicit discharge.

Illicit discharge means any discharge to a municipal separate storm sewer that is not entirely composed of storm-water, except discharges pursuant to this general permit or a separate authorization and discharges resulting from emergency fire-fighting activities.

Industrial activity means any activity at an industrial facility described by the TPDES Multi Sector General Permit, TXR050000, or by any other TCEQ or TPDES permit including any of the following, by way of illustration and not of limitation: manufacturing, processing, materials storage, and waste materials disposal.

Industrial waste means any waterborne liquid or solid substance that result from any process of industry, manufacturing, mining, production, trade or business.

Municipal Separate Storm Sewer System (MS4) means the storm drainage system operated and maintained by the city which is comprised of the following: the system of conveyances (including roads with drainage systems, municipal streets, catch-basins, curbs, gutters, ditches, manmade 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.

Oil means any kind of oil in any form, including but not limited to petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste. 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 means the person or persons who, either individually or taken together, meet the following two criteria:

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

Owner means the person who owns a facility or part of a facility.

Outfall means point source at the point where a small MS4 discharges to waters of the U.S. and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the U.S. and are used to convey waters of the U.S. For the purpose of this permit, sheet flow leaving a linear transportation system without channelization is not considered an outfall. Point sources such as curb cuts; traffic or right-of-way barriers with drainage slots that drain into open culverts, open swales or an adjacent property, or otherwise not actually discharging into waters of the U.S. are not considered an outfall.

Person means 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.

Petroleum storage tank (PST) means any one or a combination of aboveground or underground storage tanks or connecting underground pipes that contain petroleum products that are obtained from distilling and processing crude oil and that are capable of being used as a fuel.

Pollutant means a substance, the entrance of which causes or contributes to a violation of applicable water quality standards as defined by the Clean Water Act. This term includes but is not limited to paints, varnishes, solvents, oil and other automotive fluids, yard wastes, trash, sediments, household chemicals, detergents, pesticides, herbicides, fertilizers, hazardous materials, sewage, animal wastes, dredged spoil, solid waste, incinerator residue, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water, and other materials exposed to storm-water as a result of construction activity.

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

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the Municipal Separate Storm Sewer System (MS4) or conveyances.

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

Service station means any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

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

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

Storm water pollution prevention plan (SWPPP) means 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.

Storm water means any surface flow, storm-water runoff, snow melt runoff, and surface runoff and drainage consisting entirely of water from any form of natural precipitation.

TCEQ means the Texas Commission on Environmental Quality, or any duly authorized official of said agency.

Texas Pollutant Discharge Elimination System (TPDES) means the program delegated to the State of Texas by EPA pursuant to 33 USC 1342(b).

Trash means non-putrescible solid waste, excluding ashes that consist of:

- (1) Combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and
- (2) Noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal objects, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Uncontaminated means not containing a harmful quantity of any substance.

Wash-water means any water containing pollutants from the act of cleaning parking lots, vehicles, or building exteriors.

Wastewater means human excrement, gray water (from home clothes washing, bathing, showering, dishwashing, and food preparation), other wastewater that is free from industrial waste including from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions.

Water quality standard means the designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses, as specified in 31 Tex. Admin. Code Ch. 307.

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

Yard waste means leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

Sec. 13.30.030 - Minimum standards.

The standards set forth in this chapter are minimum standards; therefore, no inference is intended that compliance with this chapter will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants. Additionally, no inference is intended that compliance with this chapter will serve to extend any deadline established by a state or federal standard or requirement, nor is any inference intended that compliance with this chapter will relieve a discharger of liability for any violation or continuing violation.

Sec. 13.30.040 - Compliance obligations.

- (a) Any person subject to an industrial or construction activity TPDES storm-water discharge permit shall comply with all provisions of such permit or any other state or federal regulations. Prior to the city allowing discharges to the MS4 or conveyances, the city may require proof of such compliance in a form acceptable to the city.
- (b) Every person owning property through which a conveyance passes shall have the obligation to keep and maintain that part of the conveyance within that property free of pollutants.

Sec. 13.30.050 - General prohibition; affirmative defenses.

- (a) General prohibition. No person within the city limits of the city shall introduce, cause to be introduced, discharge, or cause to be discharged into the Municipal Separate Storm Sewer System (MS4) or any conveyances any discharge that is not composed entirely of storm-water. Such prohibition includes commencement of any illicit discharge into the MS4 or any conveyances, and continuation of any illicit discharge into the MS4 or any conveyances.
- (b) Affirmative defenses. It is an affirmative defense to any enforcement action for violation of subsection (a) of this section that the discharge was composed entirely of one or more of the following categories of discharges:

- (1) A discharge specified in writing by the city as necessary to protect public health and safety.
 - (2) A discharge authorized by a TPDES permit, waiver, or waste discharge order issued to the discharger and administered under authority of the TCEQ or USEPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, order, and other applicable laws and regulations.
 - (3) A discharge resulting from firefighting/fire suppression activities.
 - (4) A discharge of fire protection water from standard municipal operations and training that does not contain oil or hazardous substances or materials that are required to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge.
 - (5) A discharge resulting from the standard municipal operations of street sweeping and street washing activities, which discharge is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance.
 - (6) A discharge from water line flushing, but not including a discharge from water line disinfection by super-chlorination or other means unless the total residual chlorine (TRC) has been reduced to less than one ppm (part per million) and it contains no harmful quantity of chlorine or any other chemical used in line disinfection.
 - (7) A discharge from a potable water source not containing any harmful quantity of a substance or material from the cleaning or draining of a storage tank or other container.
 - (8) A discharge from individual residential car washing.
 - (9) A discharge from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant.
 - (10) Swimming pool water that has been dechlorinated so that total residual chlorine (TRC) is less than one ppm (part per million) and that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.
 - (11) Storm-water runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant.
 - (12) A discharge or flow from a diverted stream flow or natural spring.
 - (13) A discharge or flow from uncontaminated pumped groundwater, rising groundwater, or groundwater infiltration to storm drains.
 - (14) Uncontaminated groundwater infiltration, as defined by 40 CFR 35.2005(20), to the MS4.
 - (15) Uncontaminated discharge from a foundation or footing drain (excluding active groundwater dewatering systems), crawl space pump, or sump pump.
- (c) No affirmative defense shall be available under this chapter if the discharge in question has been previously determined by the city to be a source of a pollutant to the MS4 or any conveyances, and written notice of such determination has been provided to the discharger. The city's determination that a discharge is a source of a pollutant may be reviewed in any administrative or judicial enforcement proceeding.

Sec. 13.30.060 - Specific prohibitions.

- (a) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in section 13.30.050.
- (b) No person shall introduce, cause to be introduced, discharge, or cause to be discharged into the MS4 or conveyances 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) 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:
 - (1) Any motor oil, antifreeze, or any other motor vehicle fluid.
 - (2) Any industrial waste.
 - (3) Any hazardous material, including household hazardous waste, hazardous substances, and hazardous waste.
 - (4) Any wastewater or septic tank waste, grease trap waste, or grit trap waste.
 - (5) Any garbage, trash, or yard waste, specifically including but not limited to pressure-treated wood, painted wood, painted wood pallets, laminated wood, insulation, and particle board.
 - (6) Any discharge from a carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than four such vehicles.
 - (7) Any discharge from the cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance.
 - (8) Any discharge from commercial floor, rug, or carpet cleaning.
 - (9) Any discharge from the wash-down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any discharge from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed.
 - (10) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler.
 - (11) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro-mulch material, or material from the cleaning of vehicles or equipment containing, or used in transporting or applying, such materials.

- (12) Any runoff or wash-down water from concentrated animal feeding operations as defined in 40 CFR 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR 122.24.
- (13) Any swimming pool, fountain, or spa water, including backwash water, containing total residual chlorine (TRC) of one ppm (part per million) 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.
- (14) Any discharge from water line disinfection by super-chlorination or other means if the total residual chlorine (TRC) is at one ppm (part per million) or more or if it contains any harmful quantity of chlorine or any other chemical used in line disinfection.
- (15) Any fire protection water containing oil or hazardous materials that are required to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge. This prohibition does not apply to discharges or flow from firefighting/fire suppression activities.
- (16) Any contaminated runoff from a vehicle salvage yard or storage yard.
- (17) Any substance or material that will damage the MS4.
- (18) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge from the remediation of any such PST release, unless the discharge satisfies all of the following criteria:
 - a. Compliance with all state and federal standards and requirements; and
 - b. No discharge containing a harmful quantity of any pollutant.
- (19) Any harmful quantity of sediment, silt, earth, soil, or other material which is associated with clearing, grading, excavation or other such construction activities, or which is associated with landfilling or other placement or disposal of soil, rock, or other earth materials.
- (20) Any pavement wash-water from a service station unless such wash-water has passed through a properly functioning and maintained grease, oil, and sand separator before discharge into the MS4 or conveyances.
- (21) Any introduction of oil into the environment, specifically including but not limited to oil applied to a road or land for dust suppression, weed abatement, or other similar use; any introduction of oil commingled or mixed with solid waste that is to be disposed of in a landfill; any introduction of oil by direct disposal on land or in a landfill; or any introduction of oil into the MS4 or conveyances, or into any septic tank.

Sec. 13.30.070 - Prohibition of illicit connections and tampering with the MS4.

- (a) The construction of, use of, maintenance of, or continued use of a new or existing illicit connection to the MS4 or any conveyances is prohibited. This prohibition expressly includes any illicit connection made before passage of the ordinance codified in this chapter, regardless of whether such connection was permissible under law or practices applicable or prevailing at the time of connection. A person is deemed to be in violation of this chapter if the person

connects a line conveying wastewater or industrial waste to the MS4 or any conveyances, or allows such a connection to continue.

- (b) It is unlawful to injure or in any way tamper with any part of the MS4, including willfully or negligently clogging any sewer drain.

Sec. 13.30.080-- Construction requirements and control measures.

Operators of construction activities shall be required to select, install, implement, and maintain storm water control measures that comply with City of Georgetown Construction Specifications and Standards, Drainage Criteria Manual (DCM), Unified Development Code (UDC), TPDES Construction General Permit, TPDES MS4 General Permit, or other ordinances that may apply to construction activities. The Operator shall ensure the following minimum requirements are effectively implemented and complied with:

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

- (1) An SWPPP is currently required by EPA and TCEQ for all construction activities where one (1) or more acres will be disturbed during development. Developments of sites that disturb one (1) acre or more within City jurisdiction shall prepare a SWPPP that satisfies EPA, TCEQ regulations, the NPDES or TPDES construction general permit, and this ordinance. No construction activities may begin until the SWPPP is approved by the City Engineer or designee.

- a. A copy of the SWPPP shall be provided to the City's Engineer. The SWPPP shall be submitted at the time that subdivision construction plans are submitted, or if the construction activities do not require subdivision approval, at the time of submission of the site development application, or if the construction activities do not require site development application approval, at the time of submission of a building permit application. The City Engineer or to his/her designee(s) or other City personnel may require correction of any deficiencies in the SWPPP, and may require additional measures in order to meet the minimum requirements of the pollution control measures section below.

- b. A copy of any notice of intent (NOI) or small or large construction site notice provided to EPA or TCEQ shall be provided to the City Engineer.

- c. A copy of any Notice of Termination (NOT) submitted to EPA or TCEQ shall be provided to the City Engineer.

- (2) If the site is one (1) acre or more, but less than one (1) acre will be disturbed, an erosion and sedimentation control plan is required. The erosion sedimentation control plan shall be submitted at the time that subdivision construction plans are submitted, or if the construction activities do not require subdivision approval, at the time of submission of the site development application, or if the construction activities do not require site development application approval, at the time of submission of a building permit application. No construction activities may begin until the erosion sedimentation control plan is approved by the City.

- (b) Development of sites less than one (1) acre.

1. 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. An erosion and sedimentation control plan that complies with this ordinance must be submitted and approved by the City before a building permit may be issued.
2. An erosion and sedimentation control plan, as defined in the Construction Specifications and Standards 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 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.
3. Submission of a site-specific erosion and sedimentation control plan is required for a single-lot, single-family residential construction, in accordance with this Chapter, as may be amended, and/or an NPDES or TPDES permit.
4. 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).
5. 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.
6. 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.
7. For purposes of this section, the entire plat or site shown in a site plan application or building permit application shall be considered to be the area being disturbed unless otherwise specified within the plat, site plan, or building permit application, as appropriate. The responsible party shall take appropriate measures to ensure no construction activities disturb or occur on any area that is not designated as disturbed on the plat or site plan.
8. A Certificate of Completion will not be issued until the Chief Building Official is satisfied that all temporary and permanent measures specified by the plan are complete and any access easements or maintenance agreements required by this Ordinance have been submitted to the City and/or County.
9. A Certificate of Occupancy will not be issued until the Chief Building Official is satisfied that all temporary and permanent measures specified by the plan are complete and any access easements or maintenance agreements required by this Ordinance have been submitted to the City.

10. 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 provided a maintenance bond to the City, and any access easements or maintenance agreements required by this Ordinance have been submitted to the City.
- (c) Special land use requirements.
1. Any plans submitted with an application for a site development and/or 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 Georgetown Construction Specifications and 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 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
- (d) Pollution prevention measures
1. Any person engaging in construction activity and any operator shall 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:
 - a. 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;
 - b. 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 stormwater, and,
 - c. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

- (a) Construction of Stormwater Management System. Operators of construction activities shall be required to comply with Chapter 11 of the Unified Development Code requiring installation of certain Stormwater Management Systems, the City's Construction Specifications and Standards and Drainage Criteria Manual for the Stormwater Management Systems, and any other applicable ordinances, regulation or code applying to construction activities.
- (b) Responsibility for Maintenance of Permanent BMP and Measures after Construction is Complete. The Operator or permittee of the Stormwater Management System is responsible for maintaining the permanent BMP after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership or control of the property (such as without limitation, an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the City, as provided in Sections c and d below. The City shall then be responsible for maintenance until another entity assumes such obligations in writing or ownership is transferred. If a TCEQ Edwards Aquifer Protection Plan is applicable to a specific permanent stormwater facility, then the responsible party shall adhere to all requirements of that Plan as specified by the TCEQ, including recording the Plan in the county land records.
- (c) Commercial and Multi-Family Properties
 - (1) The maintenance and repair of stormwater facilities for commercial and multi-family properties shall be the responsibility of the property owner and the person in control of the property, if different from the property owner. The stormwater facilities shall be maintained in good repair and working order in accordance with this Ordinance, applicable state and federal law, and good engineering practices.
 - (2) At least once each year, the property owner or person in control of the property shall cause the stormwater facility to be inspected and an inspection report provided by a person qualified to inspect stormwater facilities. The inspection report shall be maintained on file at the property at all times and shall be made available to the City upon request. The property owner and/or person in control of the stormwater detention facility shall promptly repair any deficiencies identified in the inspection report.
 - (3) Prior to the issuance of a Certificate of Occupancy or Certificate of Completion for a property upon which a stormwater management facility will be located, the property owner shall execute an access easement agreement with the City in a form acceptable to the City that binds all subsequent owners of land served by the stormwater management facility, which allows the City or its contractor/agent access to the facility to periodically inspect if the facility is maintained in proper working condition and meets design standards and other provisions established by this ordinance. The easement agreement shall be recorded by the in the County land records.
 - (4) In the event that a stormwater facility will be shared by two properties, in addition to the other requirements of this Section 13.30.090(B), the property owners sharing the stormwater facility shall execute such agreements, covenants, and easements reasonably required by the City to address joint use of and access to the stormwater facilities.
- (d) Single Family and Two-Family Residential. All stormwater management facilities in areas designated as single or two-family residential that are accepted by the City for maintenance

and operation will be maintained by the City, except as provided in this section, the plat notes and/or restrictive covenants for the subdivision, or an agreement between the City and the developer of the subdivision or the HOA as appropriate. The City's maintenance and repair obligations shall include: removal of silt, litter, and other debris from all catch basins, inlets, and drainage pipes. The City will also maintain the functionality of water quality improvements contained in open channels, detention, and water quality areas. Maintenance needs that are the obligation of the property owner or person in control of the property must be addressed in a timely manner as determined by the City which include cutting grass, removal of litter and debris, vegetation removal, and maintenance or replacement of landscape vegetation within open channels, detention and water quality areas. Stormwater management facilities shall be located in drainage easements in a form acceptable to the City, and shall be subject to such other agreements and requirements to ensure compliance with this Section. The property owner or person in control of the property shall promptly notify the City of any conditions that require maintenance or repair that are the obligation of the City.

- (e) Failure to Maintain Practices. If the stormwater management facility becomes a danger to public safety or public health, the City of Georgetown shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 7-14 days to meet maintenance and repair requirements. If the owner of the facility fails to comply with the requirements of the maintenance covenant, the City of Georgetown, after reasonable notice, may perform all necessary work to bring the facility into compliance and charge the owner for the cost of the work in accordance with Section 13.30.190.

Sec. 13.30.100 - Compliance monitoring.

- (a) Right of entry; inspection and sampling. City staff, or appointed representative shall have the right to enter any facility or site, including industrial and construction facilities or sites, which are discharging to the MS4 or any conveyances to determine if the discharger is complying with all requirements of this chapter pursuant to this Section and state law including Section 26.173(a) of the Texas Water Code. Dischargers shall allow city staff, or appointed representative immediate access to all parts of the premises for the purposes of inspection, sampling, records examination, and copying, and for the performance of any additional inspections or duties. Dischargers shall make available to city staff, or appointed representative, upon request, any SWPPPs (storm water pollution prevention plans), modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this chapter and with any state or federal discharge permit.
 - (1) Where a discharger has security measures in force which require proper identification and clearance before entry onto its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, city staff, or appointed representative will be permitted to enter without delay for the purposes of performing the city's responsibilities.

- (2) City staff, or appointed representative shall have the right to set up on the discharger's property, or require installation on the discharger's property, of such devices as city staff deem necessary to conduct sampling and/or metering of the discharger's operations.
 - (3) City staff, or appointed representative may require any discharger to the MS4 or any conveyances to install monitoring equipment as necessary at the discharger's expense and conduct specified sampling, testing, analysis, and other monitoring of its storm-water discharges at the discharger's expense, and may specify the frequency and parameters of any such required monitoring.
 - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of city staff and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
 - (5) Unreasonable delays in allowing city staff access to the discharger's premises shall be deemed a violation of this chapter.
- (b) Search warrant. If city staff, or appointed representative has been refused access to any part of the premises from which storm-water is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter 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.

Sec. 13.30.110 - Requirement for notification of spills.

- (a) Discovery, containment and cleanup procedure. Notwithstanding other requirements of law, as soon as any discharger or operator of a facility or operation, or person responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in an illicit discharge, such person shall take all necessary steps to ensure the discovery, containment and cleanup of such discharge.
 - (1) Hazardous materials spill. In the event of discharge of hazardous materials, the discharger shall immediately notify emergency response agencies. Once the immediate threat has been properly contained, the discharger shall notify the City's Utility Customer Care Center.
 - (2) Nonhazardous materials spill. In the event of a release of nonhazardous materials, the discharger shall notify the City's Utility Customer Care Center, in person or by telephone no later than the next day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the General Manager within three business days of the telephone notice.
- (b) Record of discharge from commercial or industrial establishment. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain on site a written record of the discharge and

the actions taken to prevent its recurrence. Such records shall be retained for a minimum of three years.

Sec. 13.30.120 - Enforcement options.

- (a) When the General Manager determines that a violation of this chapter has occurred or is occurring, the following remedies are available to such General Manager or their designee. The remedies provided for in this section or elsewhere in this chapter are not exclusive. The General Manager or their designee may take any, all or any combination of these actions against a violator, consecutively or concurrently:
- (1) Issuance of a warning notice;
 - (2) Issuance of one or more applications for complaints;
 - (3) Issuance of a notice of violation;
 - (4) Execution of a consent order;
 - (5) Issuance of a compliance order;
 - (6) A show cause hearing;
 - (7) A stop work order;
 - (8) Nuisance abatement, if applicable;
 - (9) Permit suspension or revocation proceedings, if applicable;
 - (10) Suspension of utility service or MS4 access as provided in 13.30.190;
 - (11) Request the city attorney to institute suit for civil remedies as provided by this chapter, or state or federal law; or
 - (12) Any other remedy provided in this chapter.

Sec. 13.30.130 - Application for Complaint

The General Manager is authorized to issue an application for complaint for violations of this Chapter. The General Manager is also authorized to issue an application for complaint for violations of state environmental laws which are punishable only by a fine not to exceed the jurisdictional limits of the Georgetown municipal court, unless such authority is denied under state law.

Sec. 13.30.140 - Notice of Violation

- (a) When the General Manager finds that any person has violated, or continues to violate, this chapter or any permit or order issued hereunder, the General Manager may issue to such person a written notice of violation.
- (b) No later than the tenth day after receipt of the notice, the violator shall submit to the issuing General Manager or their designee an explanation of the violation and a plan for the

satisfactory correction and prevention of a reoccurrence of the violation. Such plan shall include specific actions to be taken by the violator.

- (c) If the violator denies that any violation occurred, or contends that no corrective action is necessary, he or she shall submit to the General Manager no later than the tenth day after receipt of the notice, a written explanation of the basis of any such denial or contention.
- (d) Submission of an explanation and/or plan in no way relieves a violator of liability for any violations occurring before or after receipt of the notice of violation.
- (e) Issuance of a notice of violation shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

Sec. 13.30.150 - Consent Order

- (a) The General Manager may enter into a consent order, assurance of voluntary compliance, or similar agreement with any person responsible for noncompliance with any provision of this chapter or any permit or order issued hereunder.
- (b) Such agreement may include specific action to be taken by the violator to correct the noncompliance within a time period specified by the agreement.
- (c) Such agreements have the same force and effect of compliance orders and remediation, abatement and restoration orders, and shall be judicially enforceable.

Sec. 13.30.160 - Compliance Order

- (a) When the General Manager finds that any person has violated, or continues to violate, any provision of this chapter, or any permit or order issued hereunder, such General Manager or their designee may issue a compliance order to the violator, directing the violator to come into compliance within a specified time limit.
- (b) Compliance orders may contain other requirements to address noncompliance, including additional management practices and self-monitoring to minimize the amount of pollutants discharged.
- (c) A compliance order may not extend the deadline for compliance established by a state or federal standard or requirement.
- (d) A compliance order shall not relieve a violator of liability for any violation, including any continuing violation.
- (e) A person receiving a compliance order may file a written notice of appeal with the General Manager, no later than the tenth day after receipt of the order. Such notice of appeal shall include an explanation as to why the person believes the enforcement action should not be taken.
- (f) Issuance of a compliance order shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

Sec. 13.30.170 - Show Cause Hearing

- (a) The General Manager may order any person who has violated or who continues to violate any provision of this chapter or any permit or order issued hereunder, to appear and show cause why a proposed enforcement action should not be taken.
- (b) A hearing shall not be a bar against, or a prerequisite for, taking any other action against the violator.

Sec. 13.30.180 - Stop Work Order

- (a) Whenever the General Manager finds that any operator of a construction site has violated, or continues to violate, any provision of this chapter, or any permit or order issued thereunder, such General Manager or their designee may order that a stop work order be issued to the operator, posted at the construction site, and distributed to all city departments and divisions whose decisions affect any activity at the site.
- (b) Unless express written exception is made by such General Manager or their designee, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the city associated with a building permit, grading permit, subdivision plat approval, site development plan approval, or any other city approval necessary to commence or continue construction or to assume occupancy at the site.
- (c) A person receiving an order under this section may file a written notice of appeal with the General Manager who issued it, no later than the tenth day after receipt of the order. Such notice shall include an explanation as to why the person believes the enforcement action should not be taken.
- (d) Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

Sec. 13.30.190 - Nuisance Abatement

- (a) Unless specifically stated otherwise, any nuisance as defined within this chapter is hereby declared a nuisance if it exists within the corporate limits of the city or within 5,000 feet of such limits.
- (b) The General Manager may give notice to cease, abate, remove or otherwise remedy a nuisance immediately to:
 - (1) The owner of property upon which a nuisance is located or from which a nuisance originated or is emanating. If the person creating, allowing or maintaining the nuisance is not the owner of the property, notice shall also be given to such person; and
 - (2) Any person creating, allowing or maintaining a nuisance.
- (c) The notice must be given:
 - (1) Personally to the owner/person in writing; or
 - (2) By letter addressed to the owner/person at the owner's/person's post office address and sent certified mail, return receipt requested. However, if personal or certified mail service

cannot be obtained or the owner's/person's post office address is unknown, notice may be given:

- a. By publication in the official newspaper of the city at least twice within ten consecutive days;
 - b. By posting the notice on or near the front door of each building on the property to which the nuisance relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the nuisance relates, if the property contains no buildings.
- (d) The notice may order the owner/person to undertake and implement any appropriate action:
- (1) To remediate and/or abate any adverse effects of the nuisance upon the MS4, the waters of the state, the waters of the United States or any other aspect of the environment; and/or
 - (2) To restore any part of the MS4, the waters of the state, the waters of the United States, or any other aspect of the environment that has been harmed.
- (e) Such remedial, abatement and restoration action may include, but not be limited to:
- (1) Monitoring, assessment and evaluation of the adverse effects and determination of the appropriate remedial, abatement and/or restoration action;
 - (2) Confinement, removal, cleanup, treatment and disposal of any discharged or released pollution or contamination;
 - (3) Prevention, minimization and/or mitigation of any damage to the public health, welfare or the environment that may result from the nuisance; and
 - (4) Restoration or replacement of city property or natural resources damaged by the nuisance.
- (f) The notice may direct that the remediation, abatement and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this section does not relieve the violator of liability for any violation, including any continuing violation.
- (g) If the owner/person does not comply with the notice within ten days of service, the General Manager may enter any public or private property containing the nuisance and do any work necessary to abate the nuisance, except the demolition of buildings.
- (h) If the immediate abatement of the nuisance is deemed necessary by The General Manager to protect the environment or the public health, safety or welfare from an imminent and substantial endangerment, such General Manager or their designee may, without complying with the notice provisions of this section or without waiting the ten-day period, enter the subject property and do or cause to be done any work necessary to abate the nuisance and remediate and restore the environment.
- (i) After abating the nuisance, the General Manager may inform the owner/person in a notice sent certified mail, return receipt requested, that if the owner/person commits another violation of the same kind or nature that poses a danger to the environment or to the public health and safety on or before the first anniversary date of the original notice, the city may without further notice correct the violation at the owner's expense and assess the expense against the owner's property.

- (j) All costs incurred by the city to abate a nuisance and remediate and restore the environment, including the cost of giving notice as required, shall be initially paid by the city and charged to the owner of the property.
- (k) To obtain a lien against the property, the General Manager causing the abatement shall file a statement of expenses with the county clerk for the county in which the property is located. The lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall be security for the costs incurred and interest accruing at the rate of 10% on the amount due from the date of payment by the city.
- (l) The lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.
- (m) A lien may not be filed against real estate protected by the homestead provisions of the Texas Constitution.

Sec. 13.30.200 - Disconnection from MS4.

- (a) Any discharger in violation of this chapter may have its/their MS4 connection terminated by city staff, if such disconnection would abate or reduce an illicit discharge. The city has the right to require the violator to disconnect from the MS4 at the violator's expense, or require the discharger to take corrective action to eliminate the source of the illicit discharge. A discharger commits an offense if it reinstates an MS4 connection previously terminated pursuant to this chapter, without the prior written approval of the city.
- (b) Without any prior notice, city staff may terminate a discharger's MS4 connection when such action 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 or any conveyances. If the discharger fails to comply with any order issued in such an emergency, the city may take such steps as it deems necessary to prevent or minimize damage to the MS4 or any conveyances, and to minimize danger to persons.

Sec. 13.30.210 - Right to reconsideration of enforcement provision.

- (a) Any discharger subject to an order under section 13.30.150 may petition the City Manager to reconsider the basis for the order within seven days of the affected person's notice of issuance of such an order.
- (b) After the City Manager has reviewed relevant documents and evidence, he shall:
 - (1) Grant the petition;
 - (2) Deny the petition; or
 - (3) Grant the petition in part and deny it in part.

The City Manager may modify the order as is appropriate based upon all the documents and evidence. Further orders and directives as are necessary and appropriate may be issued. The decision of the City Manager shall be final and shall be non-appealable.

Sec. 13.30.220 - Violation deemed public nuisance.

Any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is therefore declared and deemed a public nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the city.

Sec. 13.30.230 - Criminal penalties.

- (a) A discharger that violates any provision of this chapter, or any order issued hereunder, commits an offense punishable by a fine not to exceed \$500.00 per violation, per day, or any greater fine authorized by state statute. Proof of a culpable mental state is not required for conviction of an offense under this subsection.
- (b) A discharger that violates any provision of this chapter, or any order issued hereunder, intentionally, knowingly, recklessly, or with criminal negligence commits an offense punishable by a fine not to exceed \$2,000.00 per violation, per day, or any greater fine authorized by state statute.
- (c) Any discharger who has knowingly made any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, or any order issued hereunder, or who has falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this chapter shall be guilty of a misdemeanor and, upon conviction, be subject to a fine of not more than \$2,000.00 per violation, per day, or any greater fine authorized by state statute.
- (d) In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence, or other state of mind of the violator, and any other factor as justice requires.
- (e) The remedies provided for in this chapter are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city is empowered to take more than one enforcement action against any violator, and these actions may be taken concurrently.