

ORDINANCE NO. 494

AN ORDINANCE OF THE CITY OF MANOR, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MANOR, TEXAS BY ADDING ARTICLE 6.04 TO CHAPTER 6, HEALTH AND SANITATION, REGULATING THE USE OF THE DISCHARGE OF WATERS AND WASTE INTO THE CITY'S STORM WATER SYSTEM, DRAINAGE FACILITIES AND OUTFALLS; PROHIBITING CERTAIN DISCHARGES; PROVIDING FOR SUSPENSION OF SERVICES; PROVIDING A PENALTY FOR VIOLATIONS OF THE ORDINANCE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Whereas, it is the intent of this Ordinance to maintain and improve the quality of surface water and groundwater within the City of Manor 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, the City of Manor finds that adoption of this ordinance prohibiting certain discharges into the City's storm water system and drainage facilities and outfalls will promote and protect the public health, safety and welfare;

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

Section 1. Findings. The forgoing recitals are incorporated into this Ordinance as true and correct findings of fact.

Section 2. Amendment of Code of Ordinances. The City Council hereby amends Chapter 6 Health and Sanitation, of the City's Code of Ordinances to add a new *Article 6.04. Water Quality Protection* section, attached hereto as Exhibit "A" and incorporated herein for all purposes.

Section 3. Repealing All Ordinances in Conflict. All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby amended to the extent of such inconsistency or conflict. In the event of a conflict between this Ordinance and another ordinance of the City, this Ordinance shall control.

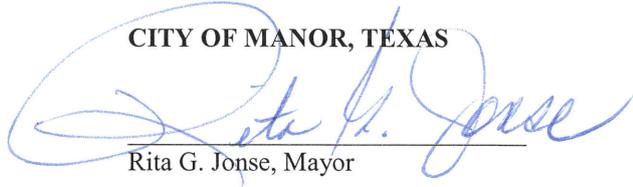
Section 4. Savings Clause. This City Council of the City of Manor, Texas does hereby declares that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event that it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declare that its intent is to make no portion of this Ordinance dependent upon the validity of any portion thereof, and that all said remaining portions shall continue in full force and effect.

Section 5. Compliance With Open Meetings Act. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

PASSED AND APPROVED on this the 15th day of November 2017.

CITY OF MANOR, TEXAS



Rita G. Jonse, Mayor

ATTEST:

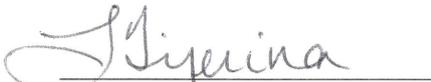

Lluvia Tijerina, City Secretary

Exhibit "A"**ARTICLE 6.04 WATER QUALITY PROTECTION****Sec. 6.04.001 Purpose and Intent**

- (a) The purpose of this Article is to provide for the health, safety and general welfare of the citizens of Manor through the regulation of non-storm water discharges into the storm drainage system to the maximum extent practicable as required by federal and state law.
- (b) This Article applies to all incorporated areas of the City of Manor, Texas and all areas located within the City of Manor's jurisdictional boundaries.
- (c) This Article establishes methods for regulating the introduction of pollutants into the City's municipal separate storm water system (or MS4) in order to comply with requirements, set forth by the National Pollutant Discharge Elimination System (NPDES) permit.
- (d) To promote public awareness of the harm involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers and natural waters of the City.
- (e) The objectives of this Article are:
- (1) To regulate the contribution of pollutants to the City of Manor MS4 by storm water discharges by any user.
 - (2) To prohibit illicit connections and discharges to the City of Manor MS4 system.
 - (3) To establish legal authority to carry out inspection, surveillance and monitoring procedures necessary to ensure compliance with this Article.

Sec. 6.04.002 Definitions

Accidental Discharge. An act or omission through which waste or other substances are inadvertently discharged into water in the State or a MS4.

Best Management Practices or "BMPs". Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of water in the State or the City MS4. BMPs include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

City. The City of Manor, Texas.

City of Manor Municipal Separate Storm Sewer System or "City MS4". The Small MS4 owned or operated by the City of Manor.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq) and any subsequent amendments thereto.

Common Plan of Development. A contiguous area where various separate and distinct construction

activities may be taking place at different times on different schedules under one plan, development or ownership.

Construction Activity. Activities that are subject to NPDES Construction Permits. These activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

Contaminated. Containing a harmful quantity of any substance.

Designated City Official or DCO. The City Manager or his designee.

Discharge or To Discharge. Any addition, introduction, release, or flow of any pollutant, storm water, or other substance, whether separate or mixed, into the municipal separate storm sewer system (MS4), surface water in the state or the waters of the U.S. The term includes any spilling, leaking, pumping, pouring, emitting, emptying, escaping, leaching, dumping, disposing, or other type of release or discharge engaged in, caused, or allowed by a discharger.

Discharger. Any person who causes, allows, permits, or suffers, or is otherwise responsible for, a discharge, spill or release, including, without limitation, any operator of a construction site or industrial facility, and the owner of a facility that is the source of a discharge.

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

Facility. Any structure or building, including contiguous land, or equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or any site or area.

Final Stabilization. The status when all soil disturbing activities at a site have been completed, and a uniform (i.e. evenly distributed, without large bare areas) perennial vegetative cover, with an established density of 70% of the original cover for unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Floatables. Anything lighter than water that can float on top of water.

Garbage. Putrescible animal and vegetable waste and residue 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. The amount of any substance that will cause pollution in the municipal separate storm sewer system, surface water in the state or the waters of the U.S.

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

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

Hazardous Waste. Any liquid, semi liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics may:

- (a) Have any of the following characteristics: Toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury or illness.
- (b) Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or defined under 40 CFR Part 261.3.

Illicit Connection. A man-made conveyance regardless of whether it is on the surface or subsurface, that allows any illicit discharge to enter a municipal separate storm sewer or, any conveyance connected from a commercial or industrial site to a municipal separate storm sewer which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit Discharge. Any discharge to a municipal separate storm sewer that is not entirely composed of storm water, except those discharges that are allowed under this Article, or pursuant to a separate authorization from the State or EPA.

Industrial Activity. Manufacturing, processing, material storage, and waste material disposal areas (and similar areas where storm water can contact industrial pollutants related to the industrial activity) at an industrial facility described by the TPDES Multi Sector General Permit, TXR050000, or by another TCEQ or TPDES permit.

Maximum Extent Practicable. The technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges that was established by CWA sec. 402(p).

- (a) Is owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to water of the United States;
- (b) Is designed or used for collecting or conveying storm water; and
- (c) Is not part of a Publicly Owned Treatment Works as defined at 40 CFR 122.2.

Municipal Separate Storm Sewer System or MS4. conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that:

- (a) Is owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to water of the United States;

- (b) Is designed or used for collecting or conveying storm water; and
- (c) Is not part of a Publicly Owned Treatment Works as defined at 40 CFR 122.2.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by the EPA (or by TCEQ) that authorizes the discharge of pollutants to water of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Non-storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Notice of Change (NOC). The Notice of Change that is required by the Construction General Permit, the Multi-Sector General Permit or the Municipal Separate Storm Sewer General Permit.

Notice of Intent (NOI). The Notice of Intent that is required by the Construction General Permit, the Multi-Sector General Permit or the Municipal Separate Storm Sewer General Permit.

Notice of Termination (NOT). The Notice of Termination that is required by the Construction General Permit, the Multi-Sector General Permit or the Municipal Separate Storm Sewer General Permit.

Operator. The person responsible for the overall operation of a site or facility.

- (a) **Primary Operator** – the person or persons associated with a large or small construction activity that meets either of the following two criteria:
 - (1) have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
 - (2) have the day-to-day operational control over those activities at a construction site that are necessary to ensure compliance with a storm water pollution prevention plan (SWP3) for the site or other permit conditions (e.g. they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).
- (b) **Secondary Operator** - the person whose operational control is limited to the employment of other operators or to the ability to approve or disapprove changes to plans and specifications. A secondary operator is also defined as a primary operator and must comply with the permit requirements for primary operators if there are no other operators at the construction site.

Other Substances. Substances that may be useful or valuable and therefore are not ordinarily considered to be waste, but that will cause pollution if discharged into water in the state.

Owner. The owner of real property subject to a proposed or existing subdivision, site, parcel of land, or development.

Person. An individual, association, partnership, corporation, organization, business trust, political subdivision, state or federal agency, or an agent or employee thereof.

Person responsible or Responsible Person. means:

- (a) the owner, operator, or demise charterer of a vessel from which a spill emanates;

- (b) the owner or operator of a facility from which a spill emanates; or
- (c) any other person who causes, suffers, allows, or permits a spill or discharge.

Pesticide. A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as these terms are defined in Section 76.001 of the Texas Agriculture Code).

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; dredged spoil; liquid and solid wastes and yard wastes; incinerator residue; sewage; garbage, litter or other discarded objects; sewage sludge; filter backwash; chemical wastes; biological materials; radioactive materials; wrecked or discarded equipment; rock, sand, cellar dirt; wastes and residues that result from constructing a building or structure; and industrial, municipal, and agricultural waste. The term:

- (a) includes tail water or runoff water from irrigation associated with an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone as defined by Texas Water Code Section 26.502; and
- (b) includes rainwater runoff from the confinement area of an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone, as defined by Texas Water Code Section 26.502; but
- (c) does not include tail water or runoff water from irrigation or rainwater runoff from other cultivated or uncultivated rangeland, pastureland, and farmland that is not owned or controlled by an operator of an animal feeding operation or concentrated animal feeding operation on which agricultural waste is applied.

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

Premises. Any building, lot, parcel of land, or portion of land, regardless of whether it is improved or unimproved, including adjacent sidewalks and parking strips.

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

State. The State of Texas.

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

Storm Water Pollution Prevention Plan or "SWPPP" or "SWP3". A document which describes the best management practices and activities to be implemented by a person/entity to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to water in the State, a conveyance or a municipal separate storm sewer to the maximum extent practicable. The SWP3 must include all practices and activities required by any applicable TCEQ permit as well as any applicable requirements of the Travis County Code or City of Manor Ordinances.

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 (MHW) out of 1,036 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

“TCEQ”. Texas Commission on Environmental Quality or any successor agency.

Texas Pollutant Discharge Elimination System or “TPDES”. The state program for issuing, amending, terminating, monitoring, and enforcing permits authorizing the discharge of pollutants to water in the State of Texas, and imposing and enforcing pretreatment requirements, under Clean Water Act §§ 307, 402, 318 and 405, the Texas Water Code and Texas Administrative Code regulations

To discharge. To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

TPDES permit. A Texas Pollutant Discharge Elimination System permit issued by the State of Texas under authority from EPA pursuant to 33 USC § 1342 (b) that authorizes the discharge of pollutants to surface water in the state or the waters of the U. S., whether the permit is applicable on an individual, group, or general area-wide basis.

Waste. Sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as the terms are defined in Texas Water Code, Section 26.001.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Water in the State. Groundwater, percolating or otherwise, 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, 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 watercourses and bodies of surface water, that are wholly or partially inside or bordering the State of Texas or inside the jurisdiction of the State of Texas.

Waters of the United States. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters 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” at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

Sec. 6.04.003 **Applicability**

This Article shall apply to all water entering the storm drainage system generated on any developed or

undeveloped lands unless explicitly exempted by the City.

Sec. 6.04.004 Responsibility for Administration

The City shall administer, implement and enforce the provisions of this Article.

Sec. 6.04.005 Ultimate Responsibility

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

Sec. 6.04.006 Prohibited Discharges

(a) No person may cause, suffer, allow, or permit the discharge of any waste or of any pollutant, or the performance or failure of any activity other than a discharge, in violation of this Article.

(b) No person may discharge or cause to be discharged into the City MS4 or into a water in the State any pollutant that causes or contributes to a violation of applicable water quality standards, other than storm water authorized by permit or similar authorization issued by the TCEQ.

(c) The commencement, conduct or continuance of any illicit discharge is prohibited except as described as follows:

(1) The following discharges are exempt from this Article only if they do not substantially contribute pollutants in storm water runoff:

- (A) water line flushing, or other potable water sources;
- (B) water line breaks, only if sediment and chlorine in the discharge is controlled so that there is no impact to aquatic life;
- (C) water line hydrant testing, only if rust deposits and chlorine levels do not result in an impact to aquatic life;
- (D) runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
- (E) landscape irrigation or lawn watering;
- (F) diverted stream flows;
- (G) rising groundwater or springs;
- (H) discharges from uncontaminated groundwater infiltration;
- (I) discharges from uncontaminated, pumped groundwater;
- (J) discharges from uncontaminated foundation and footing drains;
- (K) discharges from air conditioning condensation;

- (L) discharges from water pumped from an elevator sump or utility vault, only if it is free of oil and visible sheen;
 - (M) discharges from individual residential exterior car washing only if mild detergents are used and the discharges contain no degreasers or other chemicals;
 - (N) flows from a wetland or riparian habitat;
 - (O) uncontaminated discharges associated with a de-chlorinated, residential swimming pool, spa, or ornamental fountain, excluding filter backwash wastewater and excluding saline water;
 - (P) discharges from the routine washing of pavement only if the washing is done without the use of detergents or other chemicals; spills or leaks of oil, toxins, or other hazardous materials have not occurred (unless all spilled material has been removed); and the discharge does not include street sweeper wash water;
 - (Q) discharges from fire-fighting activities where foam or chemical agents are not used (and not including washing of trucks, runoff from training activities, and similar activities);
 - (R) discharges of uncontaminated fire test maintenance and fire sprinkler/suppression system water;
 - (S) discharges of uncontaminated water used for dust suppression;
 - (T) dye testing, if written notification is made to the City prior to the time of the test;
 - (U) discharges associated with dewatering of collected storm water in an above-ground storage tank secondary containment area if the water is free of, oil, visible sheen, and other contaminants;
 - (V) discharges from dewatering of collected storm water in a construction pit, only if the discharge is free of silt, oil, and visible sheen;
 - (W) discharges of storm water from an authorized permanent water quality control;
 - (X) discharges of water from a dumpster or similar receptacle if the water is free of oil, visible sheen, and other contaminants; and
 - (Y) Any discharge specified in writing by the City as being necessary to protect public health and safety.
- (d) The prohibitions set forth in this Section do not apply to any non-storm water discharge authorized by a TPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency and TCEQ if:
- (1) The authorized person is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations;

- (2) Written approval has been granted by the City for any discharge to the City Municipal Separate Storm Sewer; and
- (3) The discharge does not contain a pollutant or any substance which causes, continues to cause, or will cause pollution.
- (e) A person violates this Article if the person discharges any storm water that contains a pollutant or any substance which causes, continues to cause, or will cause pollution.
- (f) The construction, use, maintenance, or continued existence of an illicit connection to the City Municipal Separate Storm Sewer is prohibited. This prohibition expressly includes, without limitation, an illicit connection made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Sec. 6.04.007 Prohibition of Illicit Connections

- (a) A person commits an offense if said person constructs, uses or maintains an illicit connection to the storm drain system. This applies to an illicit connection made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (b) A person is considered to be in violation of this Article if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

Sec. 6.04.008 Specific Prohibitions and Requirements

- (a) The specific prohibitions and requirements in this Section are not inclusive of all the discharges prohibited by the general prohibition in Section 6.04.006.
- (b) No person may dispose of, release, introduce or cause to be introduced into the MS4 any discharge that causes or contributes to the City to violate a water quality standard, or any state-issued discharge permit for discharges from its MS4.
- (c) No person may dispose of, release, discharge, or otherwise introduce, cause, suffer, allow, or permit to be introduced any of the following substances into the MS4:
 - (1) Oil, cutting oil, petroleum products, and other motor vehicle fluids, such as gasoline, antifreeze, oil, transmission fluid, hydraulic fluid, brake fluid, or power steering fluid;
 - (2) Industrial waste;
 - (3) Hazardous waste, including household hazardous waste;
 - (4) Any liquids, solids or gases or any other substances which are a fire or other hazard to the system, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fires, explosions, or be injurious in any other way to the facilities or operation of the storm water system.
 - (5) Domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 - (6) Free or emulsified fats, waxes, greases or oils.

- (7) Garbage, rubbish, yard waste, refuse, or other floatable material;
- (8) Wastewater from a carwash facility or operation (including fundraisers); from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment;
- (9) Wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance, or that is at a temperature that has been elevated by induced heating;
- (10) Wastewater from the washdown or other cleaning of streets and pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance, or that is at a temperature that has been elevated by induced heating; or any wastewater from the washdown or other cleaning of any pavement or surface where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of the cleaning agents and all substances released by the cleaning agents have been previously removed, and approved by the Designated City Official (DCO) for discharge to the MS4 rather than the sanitary sewer;
- (11) Effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
- (12) Filter backwash from any water treatment system, contact or non-contact cooling water, or unpermitted condensate;
- (13) Swimming pool, spa or fountain water unless proof of dechlorination or removal of chemicals is provided by the discharger; or filter backwash from, or waste from the construction, maintenance or repair of a swimming pool, spa, or fountain;
- (14) Runoff or washdown water from any animal pen or yard, kennel, or pet, fowl or livestock containment area;
- (15) Ready-mixed concrete, mortar, ceramic, or asphalt base material, hydromulch material, or any wastewater or substance from the cleaning of any vehicle or equipment containing, or used in transporting or applying, such material;
- (16) Discharges from water line disinfection by superchlorination or other means if the total residual of the disinfectant is higher than EPA's Primary Drinking Water Standards Maximum Residual Disinfectant Level Goal (MRDLG);
- (17) Waste water from the testing of fire protection systems;
- (18) Solid or liquid substances which may cause obstruction to the flow in storm sewers or other interference with the proper operation of the storm water system such as, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, bulk solids, waste paper or floatables; and

(19) Releases from a petroleum storage tank (PST) or chemical storage tank, or any leachate or runoff from soil contaminated by a leaking PST or chemical storage tank, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST or chemical storage tank release.

(d) No person may dispose of, release, introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation, landfilling, or other construction activities (including any placement, movement, removal, or disposal of soil, rock, or other earth materials) in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.

(e) No person may connect a line conveying sanitary sewage, domestic, industrial or a combination of both to the MS4, or allow such a connection to continue.

Sec. 6.04.009 Industrial or Construction Activities Discharges

GENERAL REQUIREMENTS

(a) All operators meeting the definition of a small or large construction site must comply with all terms and conditions of the TPDES construction general permit. All operators of construction sites, regardless of size or TPDES permit requirements, must use best management practices to control and reduce the discharge to the MS4 and to the surface water in the State or the waters of the U.S., of sediment, silt, earth, soil, and other material associated with clearing, grading, excavation, landfilling, and other construction activities to the maximum extent practicable. Such best management practices may include, but not be limited to, the following measures:

(1) Ensuring that existing vegetation is preserved where feasible and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures;

(2) Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from the site to the maximum extent practicable;

(3) Minimization of the tracking of sediments off-site by vehicles, the generation of dust, and the escape of other windblown waste from the site;

(4) Prevention of the discharge of building materials, including cement, lime, concrete, asphalt and mortar, to the MS4, surface water in the state or the waters of the U.S.;

(5) General good house-keeping measures to prevent and contain spills of paints, solvents, fuels, septic waste, and other hazardous chemicals and pollutants associated with construction, and to assure proper cleanup and disposal of any such spills in compliance with state, federal, and local requirements;

(6) Implementation of proper waste disposal and waste management techniques, including covering waste materials, minimizing ground contact with hazardous chemicals and trash, and installing and maintaining covered receptacles for rubbish and garbage to assure that such waste materials are not blown or carried by rainfall runoff from the site;

(7) Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices to maintain them in good and effective operating condition;

(8) Installation of structural measures during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. Structural measures may include, but not be limited to, the following: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on site; and sequential systems which combine several practices. Operators of construction sites are responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and for a period of two years after final acceptance by the City, unless the area is disturbed by new owners; and

(9) The current owner(s) of the property is responsible for the maintenance of the permanent stabilization structures listed above to ensure proper operation, water quality protection and flood control.

(b) Qualified personnel (provided by the operator of the construction site) must inspect disturbed areas of any construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of a storm event that is 0.5 inches or greater. Inspections may be performed once every seven (7) calendar days, on a specifically defined day, regardless of whether or not there has been a rainfall event. All erosion and sediment control measures and other identified best management practices must be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, best management practices must be modified as appropriate, and as soon as is practicable.

(c) Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in this Section.

(d) Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure.

Sec. 6.04.010 One-Acre or Greater Land Disturbances

All operators of sites of construction activity, including clearing, grading, excavation, and landfilling activities, that result in the disturbance of one or more acres of total land area, or that are part of a larger common plan of development or sale within which one or more acres of total land area are disturbed, and who are required to obtain a TPDES permit for storm water discharges associated with construction activity, must comply with the following requirements (in addition to those in Section 6.04.009):

(a) All operators must obtain coverage for storm water discharges from a construction site under the TPDES General Permit, must post a signed copy of its Notice of Intent (NOI) and/or Construction Site Notice (CSN) on the construction site prior to the commencement of construction activities. The notices required to be posted will depend on the size of the construction project and is explained in the TPDES General Permit for construction activities. The NOI and/or CSN must be posted in a location where it

is safely and readily available for viewing by the general public, local, state, and federal authorities. For large construction sites, a signed copy of the NOI and CSN from all operators must be submitted to the DCO seven (7) days prior to the commencement of construction activities. For small construction sites, a signed copy of the CSN from all operators must be submitted to the DCO at least two (2) days prior to the commencement of construction activities.

(b) A Storm Water Pollution Prevention Plan (SWPPP) must be prepared and implemented in accordance with the requirements of the TPDES permit issued for storm water discharges from the construction site, and with any additional requirements imposed by or under this Article and any other city ordinance.

(c) The SWPPP must be completed and implemented prior to the beginning of construction activities. The SWPPP must be updated and modified as required by the TPDES permit and this Article.

(d) The operator must submit the SWPPP and any modifications thereto to the DCO for review prior to commencement of or during construction activity at the site.

(e) If, upon the DCO's review of the SWPPP (or any modification to the SWPPP) and any site inspection that the DCO may conduct, the DCO determines that the SWPPP does not comply with the requirements of the TPDES permit issued for storm water discharge from the construction site, or any additional requirement imposed by or under this Article, the DCO may issue an order prohibiting the commencement, or the continuation, of any construction activity at the site. Also, if at any time the DCO determines that the SWPPP is not being fully implemented, the DCO may similarly issue an order prohibiting the continuation of any construction activity at the site.

(f) Upon review of the SWPPP and any site inspection that is conducted, the DCO may deny approval of any building permit, grading permit, or any other City approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the SWPPP does not comply with the requirements of the TPDES permit issued for storm water discharge from the construction site, or any additional requirement imposed by or under this Article. Also, if at any time the DCO determines that the SWPPP is not being fully implemented, the DCO may similarly deny approval of any building permit, grading permit, or any other City approval necessary to commence or continue construction, or to assume occupancy, at the site.

(g) The operator must make a copy of the SWPPP and any modification thereto available to the DCO at the construction site upon request.

(h) The DCO may notify the operator at any time that the SWPPP does not meet the requirements of the TPDES permit issued for storm water discharges from the construction site, or any additional requirement imposed by or under this Article. Such notification must identify those provisions of the permit or Article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) calendar days of such notification from the DCO (or as otherwise provided by the DCO), the operator must make the required changes to the SWPPP and submit to the DCO a written certification that the requested modifications have been made.

(i) The operator must modify the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4, or surface water in the State, or the waters of the U. S., or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in achieving the general objective of controlling pollutants in storm water discharges associated with construction activity.

(j) Qualified personnel (provided by the operator) must inspect at least once every fourteen (14) calendar days and within twenty-four (24) hours of the end of the storm that is 0.5 inches or greater: disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site. Inspections may be performed once every seven (7) calendar days, on a specifically defined day, regardless of whether or not there has been a rainfall event. Disturbed areas and areas used for storage of materials that are exposed to precipitation must be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures and best management practices must be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they must be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters and the MS4. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.

(k) Based on the results of the inspections required by subsection 6.04.010(j), the site description and/or the pollution prevention measures identified in the SWPPP must be modified as appropriate, but in no case later than seven (7) calendar days following the inspection. Such modifications must provide for timely implementation of any changes to the SWPPP within seven (7) calendar days following the inspection. Erosion and sediment controls that have been intentionally disabled, run-over, removed, or otherwise rendered ineffective must be replaced or corrected immediately upon discovery.

(l) A report summarizing the scope of any inspection required by subsection 6.04.010(k), and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with appropriate plan revisions must be made and retained as part of the SWPPP for at least three (3) years from the date that the site is finally stabilized and the required NOT has been submitted. The report must identify any incidence of noncompliance; or if the report does not identify any incidence of noncompliance, the report must contain a certification that the facility is in compliance with the SWPPP, the TPDES permit, and this Article. The report must be signed by the person responsible for preparing the report.

(m) The operator must retain copies of any SWPPP and all reports required by this Article or by the TPDES permit for the site, for a period of at least three (3) years from the date that the site is finally stabilized, and the required CSN or Notice of Termination (NOT) has been submitted. Such plans, reports and records must be made available to the DCO upon request.

(n) Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this Article and by the TPDES permit are eliminated, or where the operator of all storm water discharges from the construction site changes, the operator of the construction site must submit to the DCO a copy of the CSN or NOT required by the TPDES Permit.

Sec. 6.04.011 Storm Water Discharges Associated with Industrial Activity

(a) All operators of municipal landfills; hazardous waste treatment, disposal, and recovery facilities; industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and

Reauthorization Act of 1986 (SARA) 42, USC § 11023; and industrial facilities that are sources of storm water discharges associated with industrial activity, and that the DCO determines are contributing a substantial pollutant loading to the MS4, must comply with the following requirements:

- (1) Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the TPDES Storm Water Multi-Sector General Permit for Industrial Activities (“the Multi-Sector General Permit”) or an NPDES permit for oil and gas industrial activities, must submit a signed copy of its Notice of Intent (NOI) to the DCO at least fifteen (15) calendar days prior to the commencement of the industrial activity at the facility. If the industrial activity requiring a permit is already underway upon the effective date of this Article, a copy of the permit assignment notice or the NOI must be submitted within thirty (30) calendar days. For storm water discharges associated with industrial activity where the operator changes, a copy of the required NOI must be submitted at least two (2) calendar days prior to the change. Facilities that qualify for the No Exposure Certification (NEC) must submit copies of the certification to the DCO.
- (2) A SWPPP must be prepared and implemented in accordance with the requirements of the appropriate NPDES or TPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under this Article and any other city ordinance.
- (3) The SWPPP must be completed prior to the submittal of the NOI to the DCO and, for a new industrial operation, prior to the commencement of the industrial activity at the facility. The SWPPP must be updated and modified as required by the appropriate NPDES or TPDES permit and this Article.
- (4) The DCO may require the operator to submit the SWPPP, and any modifications thereto, to the DCO for review. Such submittal and review of the SWPPP may be required by the DCO prior to commencement of or during industrial activity at the facility.
- (5) Upon review of the SWPPP and any site inspection that is conducted, the City may deny approval of any application for a permit, or any other City approval necessary to commence or continue the operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the appropriate NPDES or TPDES permit issued for storm water discharges from the industrial facility, or any additional requirement imposed by or under this Article. Also, if at any time the DCO determines that the SWPPP is not being fully implemented, the City may similarly deny approval of any application for a permit, or any other City approval necessary to commence or continue operation of the industrial facility.
- (6) The SWPPP, with any modifications attached, must be retained at the industrial site from the date of commencement of operations until all storm water discharges associated with industrial activity at the facility are eliminated, and the required NOI has been submitted in accordance with the appropriate NPDES or TPDES permit.
- (7) The operator must make a copy of the SWPPP and any modification thereto available to the DCO upon request.
- (8) The DCO may notify the operator at any time that the SWPPP does not meet the requirements of the appropriate NPDES or TPDES permit issued for storm water discharges from the industrial facility, or any additional requirement imposed by or under this Article. Such notification must identify those provisions of the permit or Article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such

requirements. Within seven (7) calendar days of such notification from the DCO (or as otherwise provided by the DCO), the operator must make the required changes to the SWPPP and submit to the DCO a written certification that the requested modifications have been made.

(9) The operator must modify the SWPPP whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the MS4, surface water in the State, or the waters of the U.S., or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in storm water discharges associated with industrial activity.

(10) Qualified personnel (provided by the operator) must conduct comprehensive site compliance evaluations including, but not limited to, inspection of equipment and areas of the facility specified in the SWPPP as required by the appropriate NPDES or TPDES permit at intervals of no less than once per year. A set of tracking or follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections. Records of inspection must be maintained and made available to the DCO upon request.

(11) Based on the results of the compliance evaluation, the description of potential pollutant sources and the pollution prevention measures and controls identified in the SWPPP must be modified as appropriate, but in no case later than fifteen (15) calendar days following the inspection. Such modifications must provide for timely implementation of any changes to the SWPPP within twelve (12) weeks after the compliance evaluation.

(12) A report summarizing the scope of any site evaluation required by the appropriate NPDES or TPDES permit, and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with appropriate plan revisions must be made and retained as part of the SWPPP for at least three (3) years after all storm water discharges from the facility are eliminated and the required NOT has been submitted. The report must identify any incidence of noncompliance; or if the report does not identify any incidence of noncompliance, the report must contain a certification that the facility is in compliance with the SWPPP, the appropriate NPDES or TPDES permit, and this Article. The report must be signed by the person responsible for preparing the report.

(13) If the industrial facility is required by the appropriate NPDES or TPDES permit to conduct monitoring, records of the monitoring results must be retained at the facility and made available to the DCO upon request.

(14) By written notice, the DCO may require any industrial facility identified in accordance with this Section to implement a monitoring program at its expense that includes the submission of quantitative data on the following constituents:

- (a) any pollutants limited in effluent guidelines subcategories; where applicable;
- (b) any pollutant listed in an existing NPDES or TPDES permit for the facility;
- (c) oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen; and
- (d) information on discharges required under 40 CFR 122.21 (g)

(7) (ii), (iii) and (iv).

Written reports of any of such monitoring results must be retained at the facility and made available to the DCO upon request.

(15) By written notice, the DCO may require any industrial facility identified in this Section to conduct semi-annual or annual monitoring of storm water discharges, or the DCO may specify an alternative monitoring frequency and/or specify additional parameters to be analyzed. Written reports of any of such monitoring results must be retained at the facility and made available to the DCO upon request.

(16) The operator must retain copies of any SWPPP and all reports and records required by this Article or by the appropriate NPDES or TPDES permit for the facility, for a period of at least three (3) years after storm water discharges associated with industrial activity at the facility are eliminated, or that operator is no longer operating the facility, and the required NOT has been submitted. Such plans, reports and records must be made available to the DCO upon request.

(17) No storm water discharge associated with industrial activity may contain any of the following hazardous metals in a concentration that exceeds either the maximum allowable concentrations (in mg/l) listed below for each metal or the maximum concentrations for each metal allowed under current state law, whichever limit is more stringent:

	Daily Average	Daily Composite	Daily <u>Metal</u> Maximum
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

(18) Where all storm water discharges associated with industrial activity that are authorized by this Article, and by the NPDES or TPDES permit for those discharges from industrial activities, are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility must submit to the DCO a NOT that includes the information required for notices of termination by the appropriate NPDES or TPDES Permit.

(b) Any owner of a facility with a storm water discharge associated with industrial activity to which subsection 6.04.011(a) applies, whether or not he/she is an operator of the facility, is jointly and severally responsible for compliance with the best management practices (BMP) measures required in the SWPPP for the facility and for compliance with the effluent limitations for hazardous metals specified in subsection 6.04.011(a)(17) above.

(c) Upon request by the DCO, all owners and operators of any facility that experience a problem complying with the requirements of this Article, or any applicable NPDES or TPDES permit issued for storm water discharges from the industrial facility, must consult with the DCO and any third-party designated by the City in an attempt to achieve compliance as soon as practicable. If compliance is not achieved to the City's satisfaction, the City may, at its discretion, report the noncompliance to EPA and/or the State, and/or the City may itself undertake any enforcement action authorized in this Article. Exercise of the City's option for consultation under this shall not be a bar against, or prerequisite for, taking any other enforcement action against any owner or operator of the facility.

Sec. 6.04.012 Accidental Discharge or Spill of a Pollutant, Including a Hazardous Substance

(a) As soon as any person responsible for a facility or activity or any person who is responsible for emergency response for a facility or activity has any information of a known or suspected accidental discharge or spill that causes or may cause a pollutant to enter into storm water, a MS4, or water in the State, that person must: take all necessary steps to ensure the discovery, containment, and cleanup of the discharge; as soon as possible and no later than twenty-four (24) hours after the discharge, notify the TCEQ and any other state or federal agency that it is required by law to be notified; and immediately notify the City if the discharge may adversely affect a public or private source of drinking water or a City road, including a right-of-way, and provide information as to the location, identification, concentration, and volume of the discharge as well as the measures the responsible person is taking to contain and clean up the discharge.

(b) In the event of release of hazardous materials, the person responsible for the facility or operation, or responsible for emergency response for a facility or operation, shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the 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 City of Manor, P.O. Box 387, Manor, Texas 78653 within three (3) business days of the phone notice.

(c) If the discharge of prohibited materials originates 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 reoccurrence. Such records shall be retained for at least three (3) years.

Sec. 6.04.013 Compliance Inspection and Sampling; Right of Entry

(a) Pursuant to Texas Water Code Section 26.171, City officials, employees, agents, and representatives are entitled to enter and inspect the premises of any person to determine whether or not:

- (1) The quality of the water meets the state water quality standards adopted by the TCEQ;
- (2) persons discharging effluent into the public water located in the areas in which the City has jurisdiction have obtained permits for discharge of the effluent; and
- (3) persons who have permits are making discharges in compliance with the requirements of the permits.

(b) Pursuant to Texas Water Code Section 26.173, City officials, employees, agents, and representatives are entitled to enter any public or private property within the City's territorial jurisdiction to make inspections and investigations of conditions relating to water quality. In exercising

this power, City officials, employees, agents, and representatives are subject to the same provisions and restrictions set forth in Texas Water Code Section 26.014 with respect to the TCEQ.

(c) City officials, employees, agents, representatives and contractors are entitled to enter public or private property at any reasonable time to investigate or monitor, or if the person responsible is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state.

(d) City officials, employees, agents, representatives and contractors who enter private property must:

(1) Observe the property's rules and regulations concerning safety, internal security, and fire protection; and

(2) If the property has management in residence, notify management in person or the person then in charge in that person's presence and exhibit proper credentials.

(e) City officials, employees, agents, representatives, and contractors are entitled to enter and inspect premises as often as may be necessary to determine compliance with this Article. If a responsible person has security measures in force which require proper identification and clearance before entry into its premises, the responsible person shall make the necessary arrangements to allow access to City officials, employees, agents, representatives, and contractors.

(f) Responsible persons must allow City officials, employees, agents, representatives, and contractors ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a TPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(g) If the premises are occupied, the City official, employee, agent, representative or contractor shall present credentials and request entry. If the premises are unoccupied, the City official, employee, agent, representative or contractor shall attempt to contact a responsible person and request entry before entering.

(h) At the written or oral request of the responsible person of a facility or vessel to be inspected or sampled, any temporary or permanent obstruction to safe and easy access to the facility or vessel to be inspected or sampled must be promptly removed by the responsible person at the written or oral request of a City official, employee, agent, representative, or contractor and must not be replaced.

(i) A delay of thirty (30) minutes or more in allowing a City official, employee, agent, representative, or contractor access to a permitted facility is a violation of a storm water discharge permit and of this Article. A person who is the owner or operator of a facility with a TPDES permit to discharge storm water associated with industrial activity violates this Article if the person denies City officials, employees, agents, representatives and contractors reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.

(j) If a City official, employee, agent, representative, or contractor has been refused access to any part of the premises from which storm water is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City official, employee, agent, representative, or contractor may seek issuance of a search

warrant from any court of competent jurisdiction, in accordance with the enforcement policy adopted by the City.

Sec. 6.04.014 Reports of Violations

(a) Citizens may, and are encouraged to report any spills, releases, illicit connections, or any other instances of anyone discharging pollutants into the MS4, surface water in the state, or the waters of the U.S., and any other violation of this Article to the DCO.

(b) The DCO will keep the identity of the reporting citizen confidential, and upon request, inform the reporting citizen of any action undertaken by the City in response to the citizen's report.

(c) The Operator and the Owner of any commercial or industrial activity must report any spills, releases, illicit connections, or other instances where pollutants are discharged into the MS4, surface water in the state, or the waters of the U.S. and any other violation of this Article for which they are responsible to the City in accordance with the following:

(1) A hazardous and/or toxic material spill or release must be immediately reported to the Manor Fire Department at 911.

(2) Other instances where pollutants are discharged into the MS4, surface water in the state, or the waters of the U.S. by spill, release, illicit connections or other means must be reported to the DCO, available after business hours through 911.

(d) Both the Operator and the Owner of any commercial or industrial activity, where a spill or a release of a hazardous/toxic material or a substance of a polluting nature has occurred, are responsible for proper notification of the incident to the appropriate county, state, and federal agency. The reporting of a spill/release to the City does not release or remove any obligation of the Owner or Operator from reporting to appropriate county, state and federal officials.

These officials may include, but not be limited to:

- (1) National Response Center.
- (2) Texas Commission on Environmental Quality.
- (3) U.S. Environmental Protection Agency.
- (4) Travis County Emergency Services District #12.
- (5) Texas Department of Parks and Wildlife.
- (6) U.S. Fish & Wildlife Service.

Sec. 6.04.015 Discharge Reporting and Cleanup

(a) A discharger of a reportable quantity of a hazardous or extremely hazardous substance into the MS4, surface water in the state, or the waters of the U.S., must telephone 911 and notify the DCO and the Fire Department immediately after becoming aware of the discharge. A discharger of any of the following substances into the MS4, surface water in the state, or the waters of the U.S. must telephone and notify the DCO concerning the incident within one (1) hour after its occurrence, or the first knowledge of its occurrence:

- (1) An amount of oil that either:
 - (A) Violates applicable water quality standards; or

(B) Causes a film or sheen upon, or discoloration of, the surface of the water or an adjoining shoreline, or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline.

(2) A harmful quantity of any other pollutant that is not a hazardous or extremely hazardous substance.

(b) The notification required by subsection 6.04.015(a) must include all of the following information:

(1) The identity or chemical name of the substance released and whether the substance is an extremely hazardous substance.

(2) The exact location of the discharge, including any known name of the waters involved or threatened and any other environmental media affected.

(3) The time and duration of the discharge at the moment of notification.

(4) An estimate of the quantity and concentration, if known, of the substance discharged.

(5) The source of the discharge.

(6) Any known or anticipated health risks associated with the discharge and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals.

(7) Precautions that should be taken as a result of the discharge.

(8) Steps that have been taken to contain or clean up the discharged substance and related material and to minimize the impact of the discharge.

(9) The name and telephone number of each person to be contacted for further information.

(c) Within ten (10) days after a discharge under subsection 6.04.015(a), the discharger must, unless expressly waived in writing by the DCO, submit a written report containing each item of information required by subsection 6.04.015(b), as well as the following additional information:

(1) The ultimate duration, concentration, and quantity of the discharge.

(2) All actions taken to respond to, contain, and clean up the discharged substances, and all precautions taken to minimize the impact of the discharge.

(3) Any known or anticipated acute or chronic health risks associated with the discharge.

(4) Where appropriate, advice regarding medical attention necessary for exposed individuals.

(5) The identity of each governmental entity and private sector representative responding to the discharge.

(6) Measures taken or to be taken by the discharger to prevent similar future occurrences.

(d) The notifications required by subsections 6.04.015(b) and (c) do not relieve the discharger from any expense, loss, damage, or other liability that may be incurred as a result of the discharge, including any liability for damage to the city, to natural resources, or to any other person or property. The notifications also do not relieve the discharger from any fine, penalty or other liability that may be imposed under this Article or under state or federal law.

(e) A release report required by a state or federal regulatory authority that contains the information described in subsections 6.04.015(b) and (c) meets the reporting requirements of subsection 6.04.015(c), upon submittal of the report to the DCO.

(f) The owner or operator of any facility, vehicle, or other source responsible for a discharge described in subsection 6.04.015(a) must:

(1) Comply with all state, federal, and local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the discharge; and

(2) Reimburse the City for any costs incurred by the City in responding to the discharge.

(g) A discharger commits an offense if he/she:

(1) Fails or refuses to report the discharge within the time required by subsection 6.04.015(a) after becoming aware of the discharge;

(2) Knowingly provides false or incorrect information in a notification or report required under this Section;

(3) Fails or refuses to take the necessary action to clean up pollution or damage to the MS4, the surface water in the State or waters of the U.S., or to other property, that is caused by the discharge; or

(4) Fails or refuses to provide driver's license or other identity information when requested by the DCO.

Sec. 6.04.016 Violation; Penalties; Enforcement

(a) A person commits an offense if the person violates any provision or fails to comply with any of the requirements of this Article.

(b) **WARNING NOTICE**

When the DCO finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the DCO may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately cease any offending discharge. Resolution of the matter in response to the Warning Notice in no way relieves the discharger of liability for any violations occurring before or after receipt of the Warning Notice. Issuance of a Warning Notice shall not be a bar against, or a prerequisite for, taking any other action against the discharger.

(c) **NOTIFICATION OF VIOLATION**

(1) When the DCO finds that any person has violated, or continues to violate, any

provision of this Article, or any order issued hereunder, the DCO may serve upon that person a written Notice of Violation.

(2) When required by the DCO, an explanation of the cause of the violation and a plan for the satisfactory correction and prevention of reoccurrence, including specific required actions, must be submitted by the discharger to the DCO. This response may be verbal, or if required, must be in writing, but within the time specified by the DCO.

(3) Submission of an explanation and/or plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the Notice of Violation. Issuance of a Notice of Violation shall not be a bar against, or a prerequisite for, taking any other action against the discharger.

(d) COMPLIANCE ORDERS

(1) When the DCO finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the DCO may issue an order to the discharger directing that the discharger come into compliance within a specified time limit.

(2) The City may suspend water service, sanitary sewer service, and/or MS4 discharge access to a discharger that does not come into compliance within the time provided.

(3) Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4, surface water in the state or the waters of the U.S.

(4) A Compliance Order may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the discharger.

(e) CEASE AND DESIST ORDERS

(1) When the DCO finds that any person has violated, or continues to violate, or threatens to violate any provision of this Article, or any order issued hereunder, or that the person's past violations are likely to recur, the DCO may issue an order to the discharger directing the discharger to cease and desist all such violations and directing the discharger to:

(A) Immediately comply with all requirements; and

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Issuance of a cease and desist order shall not be a bar against, or a prerequisite

for, taking any other action against the discharger.

(f) EMERGENCY SUSPENSION OF UTILITY SERVICES AND MS4 ACCESS

(1) The DCO may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person discharging to the MS4, surface water in the state, waters of the U.S., or City owned wastewater treatment facilities when such suspension is necessary to stop an actual or threatened discharge which:

(A) Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or

(B) Presents or may present imminent and substantial danger to the MS4, surface water in the state or the waters of the U.S.

(2) When the DCO determines that City-provided water and/or sanitary sewer service/or MS4 access needs to be suspended pursuant to 6.04.016(f), the DCO shall suspend the service or access as soon as practicable.

(3) As soon as is practicable after the suspension of service or MS4 discharge access, the DCO must notify the discharger of the suspension in person or by certified mail, return receipt requested, and shall order the discharger to cease the discharge immediately.

(4) The City shall not reinstate suspended services or MS4 access to the discharger until:

(A) The discharger presents proof, satisfactory to the DCO, that the non-complying discharge has been eliminated and its cause determined and corrected;

(B) The discharger pays the City for all costs the City incurred in responding to, abating, and remediating the discharge or threatened discharge; and

(C) The discharger pays the City for all costs the City has incurred to suspend the services and will incur in reinstating service or access, including any reconnection fees and account balances that are due.

(5) A discharger whose service or access has been suspended or disconnected may appeal such enforcement action to the DCO, in writing, within ten (10) days of notice of the suspension.

(6) The remedies provided by this Section are in addition to any other remedies set out in this Article. Exercise of this remedy shall not be a bar against, or a prerequisite for, taking other action against a discharger.

(g) NON-EMERGENCY SUSPENSION OF UTILITY SERVICE AND MS4 ACCESS

(1) The DCO may terminate the City-provided water supply, sanitary sewer connection, and/or MS4 access of any person discharging to the MS4 in violation of this Section, if such termination would abate or reduce the illicit discharge.

(2) The DCO will notify a discharger of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access. The discharger may petition the DCO for a reconsideration and hearing pursuant to this Article.

- (3) The City shall not reinstate suspended services or MS4 access to the discharger until:
 - (A) The discharger presents proof, satisfactory to the DCO, that the non-complying discharge has been eliminated and its cause determined and corrected; and
 - (B) The discharger pays the City for all costs the City has incurred to suspend the services and will incur in reinstating service or access, including any reconnection fees and account balances that are due.
- (4) The remedies provided by this Section are in addition to any other remedies set out in this Article. Exercise of this remedy shall not be a bar against, or a prerequisite for, taking other action against a discharger.
- (5) A person commits an offense if the person reinstates water service, sanitary sewer service, and or MS4 access to premises terminated pursuant to this Section, without the prior approval of the DCO.
- (6) A person commits an offense if he utilizes the water service, sanitary sewer service or MS4 access of another person or premises, without their permission, or in violation of an order from the City.
- (7) The remedies provided by this Section are in addition to any other remedies set out in this Article. Exercise of this remedy shall not be a bar against, or a prerequisite for, taking other action against a discharger.

(h) ABATEMENT, REMEDIATION, AND RESTORATION ORDERS

- (1) When the DCO finds that a person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, and that such violation has adversely affected the MS4, the surface water in the state, or the waters of the U.S., the DCO may require the discharger to undertake and implement any appropriate action to abate and/or remediate any adverse effects of the violation upon the MS4, the surface water in the state, or the waters of the U.S., and/or to restore any part of the MS4, the surface water in the state, or the waters of the U.S.
- (2) Such abatement, remedial, and restoration action may include, but not be limited to: monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, and/or restoration action; confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination; prevention, minimization, and/or mitigation of any damage to the public health, welfare, or the environment that may result from the violation; restoration or replacement of any public or private property or natural resources damaged by the violation.
- (3) If no person is found to have caused the violation, the owner of any property where the violation occurred and consequent contamination, shall be the responsible person for the required abatement, cleanup and/or remediation.
- (4) The City may, at its discretion, perform such abatement, cleanup and/or remediation, and collect from the responsible person, all expenses incurred during such activities.
- (5) The DCO may require that the abatement, remediation, 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 does not relieve the discharger of liability for any violation, including any continuing violation. Issuance of an order under this Section shall not be a bar against, or a prerequisite for, taking any other action against any responsible party.

(i) **STOP WORK ORDERS**

(1) When the DCO finds that any operator of a construction site has violated, threatens to violate, or continues to violate, any provision of this Article, or any order issued hereunder, the DCO may issue a Stop Work Order to the operator, and require that a copy of the Stop Work Order be posted at the construction site and distributed to all City departments and divisions whose decisions affect any activity at the site.

(2) Unless express written exception is made by the DCO, the Stop Work Order shall prohibit any further construction activity, or any commencement of construction activity, at the site and shall bar any further inspection or approval by the City associated with a building permit, grading permit, or any other City approval necessary to commence or continue construction or to assume occupancy at the site. Issuance of a Stop Work Order shall not be a bar against, or a prerequisite for, taking any other action against the discharger.

(j) **JUDICIAL ENFORCEMENT REMEDIES**

(1) When the DCO finds that any person has violated, or continues to violate any provision of this Article, or any order issued hereunder, the DCO may petition the Municipal Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of a permit, order, or other requirement imposed by this Article on activities of the discharger.

(2) The DCO may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation.

(3) A petition for Injunctive Relief shall not be a bar against, or a prerequisite for, taking any other action against a discharger.

(4) Any person who violates any of the provisions of this Article shall be fined no more than One Thousand Dollars (\$1,000.00) for each violation of this Article. Each day that a violation is allowed to exist shall constitute a separate offense.

(5) The City Attorney is authorized to commence an action for appropriate legal or equitable relief in a court of competent jurisdiction. Such relief may include:

(A) An injunction to prevent a violation of this Article;

(B) Recovery for damages to the storm drainage system resulting from a violation of this Article;

(C) Recovery for expenses incurred by the City in responding to a violation of this Article;

(D) A civil fine of up to one thousand dollars (\$1,000.00) per day for a violation of Sections of this Article; and

(E) All other damages, costs and remedies to which the City may be entitled.

(6) The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

Sec. 6.04.017 Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety and welfare, and is declared and deemed a nuisance.