

Memorandum



DATE October 20, 2011

TO Members of the Transportation and Environment Committee:
Linda L. Koop (Chair), Sheffie Kadane (Vice Chair), Sandy Greyson,
Delia Jasso, Vonciel Jones Hill, Pauline Medrano

SUBJECT Stormwater Ordinance Revisions – Trinity Watershed Management Department
Unnumbered Draft Agenda Item on the November 7, 2011 City Council Agenda

The Transportation and Environment Committee was last briefed on the proposed revisions to the Stormwater Ordinance on September 12, 2011. The briefing summarized proposed changes to the stormwater ordinance that are necessary to update City Code to reflect changes in State and Federal regulations. The last update to the Stormwater Ordinance was made in September, 1999.

The November 7, 2011 City Council agenda includes an ordinance amending Chapter 19 of the Dallas City Code to: (1) define terms; (2) provide prohibitions, requirements, and defenses relating to the discharge of certain pollutants and hazardous substances into the stormwater drainage system; (3) require persons operating industrial or construction activity sites to operate pursuant to and consistent with all state and federal required permits and employ best management practices; (4) provide monitoring, sampling, and reporting requirements for dischargers of stormwater into the stormwater drainage system; (5) make certain nonsubstantive changes; and (6) provide penalties. A copy of the Stormwater Ordinance showing proposed revisions is attached.

Please let me know if you have any questions or need additional information.

Jill A. Jordan, P.E.
Assistant City Manager



THE TRINITY
DALLAS

Attachment

C: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Thomas P. Perkins, Jr. City Attorney
Rosa Rios, Acting City Secretary
Craig Kinton, City Auditor
Judge C. Victor Lander, Administrative Judge
A.C. Gonzales, First Assistant City Manager
Forest Turner, Assistant City Manager
Ryan Evans, Assistant City Manager
Joey Zapata, Interim Assistant City Manager

Jeanne Chipperfield, Chief Financial Officer
Frank Libro, Public Information Office
Kelly High, Director, Trinity Watershed Management
Erick Thompson, P.E. Director, Equipment & Building Services
Teresa O'Donnell, Director, Sustainable Development and Construction
Rick Galceran, P.E., Director, Public Works
Kris Sweckard, Managing Director, Management Services
Helena Stevens-Thompson, Assistant to the City Manager

9/29/11

ORDINANCE NO. _____

An ordinance amending Article IX (composed of Sections 19-118 through 19-118.8) of CHAPTER 19, "HEALTH AND SANITATION," of the Dallas City Code, as amended; defining terms; providing prohibitions, requirements, and defenses relating to the discharge of certain pollutants and hazardous substances into the stormwater drainage system; requiring persons operating industrial or construction activity sites to operate pursuant to and consistent with all state and federal required permits and employ best management practices; providing monitoring, sampling, and reporting requirements for dischargers of stormwater into the stormwater drainage system; making certain semantic, grammatical, and structural changes; providing a penalty of not less than \$250 or more than \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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

SECTION 1. That Article IX, "Storm Water Drainage System," of CHAPTER 19, "HEALTH AND SANITATION," of the Dallas City Code, as amended, is amended to read as follows:

"ARTICLE IX.

STORMWATER [~~STORM-WATER~~] DRAINAGE SYSTEM.

SEC. 19-118. DEFINITIONS.

In this article:

(1) AGRICULTURAL STORMWATER [~~STORM WATER~~] RUNOFF means any stormwater [~~storm water~~] runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but does not include discharges from:

(A) concentrated animal feeding operations as defined in 40 CFR Section 122.23; or

(B) concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

(2) ANIMAL WASTE means:

(A) animal manure, litter, or bedding;[:]

(B) water that has contacted animal manure, litter, or bedding;[:]

(C) water from washing, flushing, or cleaning animal pens; and

(D) liquid or solid waste from pens used at kennels, animal hospitals, poultry processing facilities, dairies, or rendering plants.

(3) BEST MANAGEMENT PRACTICES means schedules of activities, prohibitions of practices, local ordinances, maintenance procedures, structural controls, and other management practices that are implemented to prevent or reduce the discharge of pollutants into the stormwater drainage system, [~~pollution of~~] waters of the United States, or state water. Best management practices 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.

~~(4) [BOD (BIOLOGICAL OXYGEN DEMAND) means the amount of oxygen required to meet the metabolic needs of aerobic microorganisms in water. A high BOD indicates a high level of organic matter or waste. A BOD test is recorded in mg/l and measures the oxygen consumed over a five day period.]~~

~~(5)] CFR means the Code of Federal Regulations, as periodically amended.~~

~~(5) [(6)] CITY means the city of Dallas, Texas.~~

~~[(7) COAL PILE RUNOFF means the rainfall runoff from or through any coal storage pile.]~~

~~(8) COD (CHEMICAL OXYGEN DEMAND) means that term as defined in Section 49-1(18) of this code.]~~

(6) [(9)] COMMENCEMENT OF CONSTRUCTION means the initial disturbance of soils associated with clearing, tree removal, demolition, grading, excavating, earth filling, or other construction activities.

(7) [(40)] COMMERCIAL [USE] means used in connection with any business, trade, industry, or other business activity engaged in for profit.

(8) [(44)] CONSTRUCTION GENERAL PERMIT means either the general [General] NPDES permit [Permit for Storm Water Discharges from Construction Sites] issued by the EPA under 40 CFR Section 122.28, as amended, or the general TPDES permit issued by the TCEQ under Chapter 205, Title 30 of the Texas Administrative Code, as amended, that authorizes stormwater associated with construction activities to be discharged into waters of the United States or state water, including any subsequent modifications or amendments to the permit, any renewals of the permit, and the associated EPA or TCEQ [construction activity] regulations.

(9) CONSTRUCTION SITE means a tract or parcel of land upon which commencement of construction has occurred, together with any adjacent areas used to access the construction site or to stage construction materials or equipment by easement, license agreement, lease agreement, or other written or verbal agreement. A construction site may include or be solely comprised of one or more platted lots, public rights-of-way, or easements.

(10) CONSTRUCTION SITE NOTICE means the notice required to be posted at a construction site by EPA or TCEQ regulations or by a construction general permit that states a description of the project, the name and contact information of the operator of the construction site, and the location of the stormwater pollution prevention plan for the construction site.

(11) [(42)] DIRECTOR means the director of the department designated by the city manager to enforce and administer this article, or the director's duly authorized representative.

(12) [(43)] DISCHARGE means any addition, introduction, release, or flow of any pollutant, stormwater [storm-water], or other substance, whether separate or mixed, into the stormwater [storm-water] drainage system, waters of the United States, or state water. 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 permitted by a discharger.

(13) [(44)] DISCHARGER means:

(A) any person who causes, allows, permits, or is otherwise responsible for a discharge, including but not limited to any operator of a construction site or industrial facility; or

(B) any [the] owner or operator of a facility that is the source of a discharge.

(14) ~~(45)~~ DOMESTIC WASTEWATER means the following types of wastewater when free from industrial waste:

(A) Water [~~water~~] containing human excrement. ~~[;]~~

(B) Gray [~~gray~~] water from home clothes washing, bathing, showers, dishwashing, and food preparation, and other wastewater from household drains. ~~[; and]~~

(C) Waterborne [~~waterborne~~] waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions.

(15) DUST means particles of a substance with a particle diameter of 50 microns or less.

(16) ~~[ENVIRONMENTAL PROTECTION AGENCY (EPA)]~~ means:

(A) the United States Environmental Protection Agency;

(B) any federal department, agency, or commission that may succeed to the authority of the United States Environmental Protection Agency [EPA]; and

(C) any duly authorized official of the United States Environmental Protection Agency [EPA] or any successor agency.

(17) EXTREMELY HAZARDOUS SUBSTANCE means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.

(18) FACILITY means any building, structure, installation, equipment, vehicle, vessel, process, activity, construction site, or other property, real or personal, from which there is or may be a discharge [~~of a pollutant~~].

(19) FERTILIZER means a solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants, which substance or compound is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop. The term includes a mixture of two or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of animal and plant remains, for which no claim of essential plant nutrient elements is made.

(20) FINAL STABILIZATION means the status of the ground when:

(A) all soil disturbing activities at a site have been completed; and

(B) either a uniform perennial vegetative cover with a density of 70 percent of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

(21) FIRE DEPARTMENT means the fire-rescue department of the city.

(22) FIRE PROTECTION WATER means water, including any substance or material contained in the water, that is used by a person other than the fire department to control or extinguish a fire.

(23) GARBAGE means that term as defined in Section 18-2(20) of this code.

(24) GOVERNMENTAL ENTITY means a state agency, county, school district, municipality, or other political subdivision of the state.

(25) HARMFUL QUANTITY means the amount of any substance that will cause pollution in the stormwater [~~storm water~~] drainage system, waters of the United States, or state water.

(26) [~~HAZARDOUS HOUSEHOLD WASTE means any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer that, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.~~]

~~(27)~~] HAZARDOUS SUBSTANCE means any substance listed in Table 302.4 of 40 CFR Part 302.

~~(27)~~ [(28)] HAZARDOUS WASTE means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

~~[(29) HAZARDOUS WASTE TREATMENT, DISPOSAL, AND RECOVERY FACILITY means all contiguous land, structures, and other appurtenances and improvements on land that are used for the treatment, disposal, or recovery of hazardous waste.]~~

~~(28)~~ [(30)] HERBICIDE means a chemical pesticide designed [~~substance or mixture of substances used~~] to control or destroy [~~a~~] plants, weeds, or leaves of grass [~~to inhibit plant growth~~].

(29) HOUSEHOLD HAZARDOUS WASTE means any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer that, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

(30) [(31)] INDIVIDUAL [INDUSTRIAL—GENERAL] PERMIT means either an individual [the General] NPDES permit [Permit for Storm Water Discharges Associated with Industrial Activity] issued by the EPA under 40 CFR Section 122.26, as amended, or an individual TPDES permit issued by the TCEQ under Chapter 205, Title 30 of the Texas Administrative Code, as amended, that authorizes stormwater from a construction site or industrial facility specifically identified in the permit to be discharged into waters of the United States or state water, including any subsequent modifications or amendments to the permit, any renewals of the permit, and the associated EPA or TCEQ [industrial activity] regulations.

(31) INDUSTRIAL FACILITY means a facility that is listed in 40 CFR Section 122.26(b)(14) or that is identified in a multi-sector general permit as being engaged in industrial activity.

(32) INDUSTRIAL WASTE means that term as defined in Section 49-1(49) [(38)] of this code.

(33) LANDFILL means an area of land or an excavation owned and operated by the city:

(A) in which municipal solid waste is placed for permanent disposal; and

(B) that is not a land treatment facility, a surface impoundment, an injection well, or a pile, as those terms are defined in regulations promulgated by the TCEQ [Texas Natural Resources Conservation Commission].

(34) MG/L means milligrams per liter.

(35) MOTOR VEHICLE FLUID means any vehicle crankcase oil, antifreeze, transmission fluid, hydraulic fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, or other fluid used in a motor vehicle.

(36) MULTI-SECTOR GENERAL PERMIT means either the general NPDES permit issued by the EPA under 40 CFR Section 122.28, as amended, or the general TPDES permit issued by the TCEQ under Chapter 205, Title 30 of the Texas Administrative Code, as amended, that authorizes stormwater from an industrial facility to be discharged into waters of the United States or state water, including any subsequent modifications or amendments to the permit, any renewals of the permit, and the associated EPA or TCEQ regulations.

(37) [(36)] MUNICIPAL SOLID WASTE means that term as defined in Section 18-2(28) of this code.

(38) [(37)] NON-POINT SOURCE means any source of discharge of a pollutant that is not a point source.

(39) NOTICE OF CHANGE means a written notification to the TCEQ required by EPA or TCEQ regulations or by the terms governing a multi-sector general permit or construction general permit, informing the TCEQ of changes to information that was provided in a notice of intent or prior notice of change.

(40) [(38)] NOTICE OF INTENT means the notice of intent application form required by EPA or TCEQ regulations or by the terms governing a multi-sector ~~[an industrial]~~ general permit or construction general permit to obtain NPDES or TPDES permit coverage.

(41) [(39)] NOTICE OF TERMINATION means the notice of termination required by EPA or TCEQ regulations or by the terms governing a multi-sector ~~[an industrial]~~ general permit or construction general permit to terminate NPDES or TPDES permit coverage.

(42) [(40)] NPDES (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM) PERMIT means a permit issued by the EPA ~~[[or by the state under authority delegated pursuant to 33 USC Section 1342(b)]]~~ under 40 CFR Part 122, as amended, ~~[the National Permit Discharge Elimination System]~~ that authorizes the discharge of stormwater ~~[pollutants]~~ into waters of the United States~~[-, whether the permit is applicable on an individual, group, or general area wide basis].~~

(43) [(41)] OIL means any kind of oil in any form, including, but not limited to:

(A) petroleum, fuel oil, crude oil,[-] or any fraction of those oils that is liquid at standard conditions of temperature and pressure;

(B) sludge;

(C) oil refuse; ~~[and]~~

(D) oil mixed with other waste;

(E) animal fat, oil, or grease, including that of fish or marine mammals; and

(F) vegetable oil, including oil from seeds, nuts, fruits, or kernels.

(44) [(42)] OPERATOR means any person who, either individually or jointly with another person, has:

(A) operational control over facility specifications or construction plans and specifications, including the ability to make modifications in the plans or specifications;

(B) responsibility for the management of an industrial facility;

(C) day-to-day operational control over those activities at a facility necessary to ensure compliance with pollution prevention requirements and any permit conditions, including compliance with a stormwater pollution prevention plan; [øf]

(D) [~~(C)~~] actual physical use or operation of, or supervision of the actual physical use or operation of, a facility; or

(E) operational control that is limited to the employment of other operators.

(45) [(43)] OWNER means any person who owns or has title, in whole or in part, to a facility that is the source of a discharge.

(46) [(44)] PERSON means an individual; a private, public, or non-profit corporation; a partnership; an association; a limited liability company; a firm; an industry; a governmental entity; or any other legal entity.

(47) [(45)] PESTICIDE means any substance or mixture of substances intended:

(A) to prevent, destroy, repel, or mitigate any pest; or

(B) for use as a plant regulator, defoliant, or desiccant, as those terms are defined in Section 76.001 of the Texas Agriculture Code, as amended.

(48) [(46)] PETROLEUM PRODUCT means a petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol and other alcohol-blended fuels, aviation gasoline, kerosene, distillate fuel oil, and Number 1 and Number 2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

(49) [(47)] PETROLEUM STORAGE TANK means any one, or a combination of, aboveground or underground storage tanks that contain petroleum products, including any connecting underground pipes.

(50) [(48)] pH [PH] means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration of a solution that provides a relative measure of the acidity or alkalinity of the solution [~~that term as defined in Section 49-1(58) of this code~~].

(51) [(49)] POINT SOURCE means any discernable, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. The term does not include return flows from irrigated agriculture or agricultural stormwater [~~storm water~~] runoff.

(52) [(50)] POLLUTANT means dredged spoil, dirt, mud, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, chemical waste, chemical sludge, medical waste, biological materials, radioactive materials, hazardous waste, heat, wrecked or discarded equipment, rock, sand, [cellar dirt,] yard waste, animal waste, industrial, municipal and agricultural waste discharged into water, and any other similar material or substance characterized by state or federal law or EPA or TCEQ regulations as a pollutant. The term does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, or farm land.

(53) [(51)] POLLUTION means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any waters of the United States or state water that:

(A) renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare; or

(B) impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

~~[(52) QUALIFIED PERSONNEL means a person who possesses the appropriate competence, skills, and ability (as demonstrated by sufficient education, training, experience, and, when applicable, required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally accepted industry standards for such activity.]~~

(54) [(53)] REPORTABLE QUANTITY means:

(A) for a hazardous substance, the quantity established and listed in Table 302.4 of 40 CFR Part 302; and

(B) for an extremely hazardous substance, the quantity established in 40 CFR Part 355 and listed in the appendices [Appendix A] thereto, or Section 311 of the Clean Water Act as described in 40 CFR Section 117.3.

(55) REPRESENTATIVE STORM EVENT means a precipitation event that:

(A) results in one-tenth inch or more of precipitation, as measured by a rain gauge located within five miles of a construction site or industrial facility;

(B) occurs at least 72 hours after the preceding precipitation event that resulted in one-tenth inch or more of precipitation, as measured by the same rain gauge; and

(C) produces runoff sufficient to obtain a discharge sample.

(56) [(54)] RUBBISH means nonputrescible solid waste, excluding ashes, that consists of:

(A) combustible waste material, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastic, yard trimmings, leaves, and similar material; and

(B) noncombustible waste material, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar material that does not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

(57) SECONDARY CONTAINMENT means a container or diversionary structure (such as a bulk storage container, tank, basin, or mobile or portable container) that is designed, installed, and constructed to catch and contain spillage or leaks from a container that stores oil, used oil, petroleum products, or any pollutant.

(58) [(55)] SEPTIC TANK WASTE means any domestic wastewater contained in or coming from a holding tank such as a vessel, chemical toilet, camper, trailer, or septic tank.

~~[(56) SERVICE STATION means any retail establishment engaged in the business of selling fuel for motor vehicles by dispensing the fuel from stationary storage tanks.]~~

(59) [(57)] SITE means the land or water area where any facility is physically located or conducted, including adjacent land used in connection with the facility.

(60) [(58)] SOLID WASTE means any waste resulting from industrial, municipal, commercial, mining, and agricultural operations or from community and institutional activities, including but not limited to garbage; rubbish; refuse; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; or other discarded material including solid, liquid, semi-solid, or contained gaseous material.

(61) SPECIFIC CONDUCTIVITY means the estimated dissolved solid contents in water, as reflected by the ability of the water to conduct electricity and as measured using the testing procedure for specific conductance under 40 CFR 136.3, as amended, or an equivalent method approved by the director.

(62) STANDARD INDUSTRIAL CLASSIFICATION means either:

(A) a standard industrial classification under the Standard Industrial Classification Manual issued by the United States Office of Management and Budget; or

(B) a North American Industry Classification System (NAICS) classification under the U.S. NAICS Manual issued by the United States Office of Management and Budget.

(63) [(59)] STATE means the State of Texas.

(64) [(60)] STATE WATER means, to the extent the water is located wholly or partially within the city:

(A) the water of the ordinary flow, underflow, and tides of every [flowing] river, natural spring, stream, creek, pond, reservoir, estuary, wetland, marsh, inlet, canal, and lake and of every bay or arm of the Gulf of Mexico and the stormwater [storm-water], floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed within, upon, or forming the boundaries of the state, and including the beds and banks of all courses and bodies of surface water; and

(B) water that is imported from any source outside the boundaries of the state for use in the state and that is transported through the beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state.

(65) [(61)] STORMWATER [~~STORM-WATER~~] means stormwater [storm water] runoff, snow or ice melt runoff, and surface and drainage runoff resulting from precipitation that reaches the surface of the earth during a precipitation [storm] event.

(66) [(62)] STORMWATER [~~STORM-WATER~~] DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY means the discharge from any conveyance that is used for collecting and conveying stormwater [storm-water] and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial facility [plant], which facility [plant] is within one of the categories of facilities listed in 40 CFR Section 122.26(b)(14) or is identified in a multi-sector general permit as being engaged in industrial activity. The term does not include any discharge that is excluded from the EPA's definition of “stormwater [storm water] discharge associated with industrial activity.”

(67) [(63)] STORMWATER [~~STORM-WATER~~] DRAINAGE SYSTEM means the system of conveyances and facilities (including roads with drainage systems, city streets, catch basins, curbs, gutters, detention basins, ditches, man-made channels, natural creeks and channels, lakes, rivers, and storm drains) owned and operated by the city that are designed or used exclusively to collect or convey stormwater [storm-water] and that are not designed or used to collect or convey wastewater.

(68) [(64)] STORMWATER [~~STORM-WATER~~] POLLUTION PREVENTION PLAN means a plan required by either a construction general permit, a multi-sector general permit, or an individual [industrial-general] permit, which plan describes and ensures the implementation of practices to reduce pollutants in stormwater [storm-water] discharges associated with construction or industrial activity at a site or facility.

(69) TCEQ means:

(A) the Texas Commission on Environmental Quality;

(B) any state department, agency, or commission that may succeed to the authority of the Texas Commission on Environmental Quality; and

(C) any duly authorized official of the Texas Commission on Environmental Quality or any successor agency.

(70) TPDES (TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM) PERMIT means a permit issued by the TCEQ under Chapter 205, Title 30 of the Texas Administrative Code, as amended, that authorizes the discharge of stormwater into waters of the United States or state water.

~~[(65) TSS (TOTAL SUSPENDED SOLIDS) means solids found in water that can be removed from a solution by filtration. Origins of suspended solids can be man-made wastes or natural sources such as silt or sediment.]~~

(71) [(66)] UNCONTAMINATED means not containing a harmful quantity of a pollutant [any substance].

(72) [(67)] USED OIL means any oil that:

- (A) has been refined from crude oil or a synthetic oil;
- (B) as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties; and
- (C) may be suitable for further use and is recyclable in compliance with state and federal law.

(73) [(68)] WASTEWATER means domestic wastewater, industrial waste, or other water-carried waste that is discharged into the wastewater system and passes through the wastewater system to the city's wastewater treatment plant for treatment.

(74) [(69)] WASTEWATER SYSTEM means the system of pipes, conduits, and other conveyances owned and operated by the city that carries industrial waste and domestic wastewater, whether treated or untreated, from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions to the city's wastewater treatment plant, and into which system stormwater [~~storm water~~], surface water, and groundwater are not intentionally admitted.

(75) [(70)] WATER QUALITY STANDARD means the designation of a body or segment of surface water in the state [~~State of Texas~~] for desirable uses and the narrative and numerical criteria deemed by the state [~~State of Texas~~] to be necessary to protect those uses, as specified in Chapter 307, Title 30 [~~31~~] of the Texas Administrative Code, as amended.

(76) [~~(74)~~] WATERS OF THE UNITED STATES:

(A) means, to the extent the waters are located wholly or partially within the city:

(i) [~~(A)~~] all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide;

(ii) [~~(B)~~] all interstate waters, including interstate wetlands;

(iii) [~~(C)~~] all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce;

(iv) [~~(D)~~] all impoundments of waters otherwise defined as waters of the United States under this definition;

(v) [~~(E)~~] all tributaries of waters identified in this definition;

(vi) [~~(F)~~] all wetlands adjacent to waters identified in this definition; and

(vii) [~~(G)~~] any waters within the federal definition of the term as described in 40 CFR Section 122.2, as amended; and

(B) [~~but~~] does not include any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the federal Clean Water Act.

(77) [~~(72)~~] WETLANDS means an area that is inundated or saturated by surface water 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.

(78) [~~(73)~~] YARD WASTE means leaves, grass clippings, yard and garden debris, and brush that result from landscaping maintenance and land-clearing operations.

SEC. 19-118.1. ENFORCEMENT.

(a) The director, the city environmental health officer, and any code compliance officer have the power to enforce this article.

(b) The municipal court has the power to issue administrative search warrants, or other process allowed by law, to a police officer, the director, the city environmental health officer, or a code compliance officer of the city where necessary to aid in enforcing this article.

(c) A person who violates any provision of this article is guilty of a separate offense for each day or portion of a day during which the violation is continued. Each offense is punishable by a fine of not less than \$250 and not more than ~~[to exceed]~~ \$2,000.

(d) The ~~[Unless otherwise stated in this article, a]~~ culpable mental state ~~[is not]~~ required for the commission of ~~[to prove]~~ an offense under this article is governed by Section 1-5.1 of this code.

(e) A person is criminally responsible for a violation of this article if the person:

(1) commits or assists in the commission of the violation or causes or permits another person to commit the violation; or

(2) owns, operates, or manages a site or facility determined to be the cause of the violation.

~~(f)~~~~(e)~~ This article may also be enforced by civil court action as provided by state or federal law.

~~(g)~~~~(f)~~ This article, to the extent applicable to the activity or facility permitted, is incorporated by reference as part of any construction permit, street or sidewalk cut permit, fill permit, or plat approval or other development approval process required by this code. If a person who has received one of the permits or approvals mentioned in this subsection violates an applicable provision of this article, the director may issue a correction order for the site, activity, or facility where the violation occurred. If the violation is not corrected within the time period stipulated in the correction order, the director may either:

(1) revoke or cause the revocation of the permit or approval; or

(2) halt the permitted or approved activity or facility until the violation is abated or corrected.

SEC. 19-118.2. PROHIBITED DISCHARGES.

(a) A person commits an offense if he discharges or causes to be discharged any water that does not consist entirely of stormwater ~~[storm water]~~ into the stormwater ~~[storm water]~~ drainage system, waters of the United States, or state water.

(b) It is a defense to prosecution under Subsection (a) that a discharge of water not composed entirely of stormwater ~~[storm water]~~ resulted or occurred exclusively from one or more of the following sources, activities, or events:

(1) Full compliance with an NPDES permit or TPDES permit, other than the NPDES permit or TPDES permit granted to the city for discharges from the stormwater ~~[storm water]~~ drainage system.

- (2) Fire fighting by the fire department.
- (3) Agricultural stormwater [~~storm-water~~] runoff.
- (4) Water line flushing, excluding a flushing from water line disinfection by superchlorination or other means unless:
 - (A) the total [~~residual~~] chlorine residual has been reduced to less than one [~~five~~] mg/L[~~l~~]; [~~and~~]
 - (B) the discharge does not contain any hazardous substance [~~contains no harmful quantity of chlorine~~] or exceed the specific surface water quality standards established in Chapter 307, Title 30 of the Texas Administrative Code, as amended; and [~~any other chemical used in line disinfection~~]
 - (C) the discharge does not cause erosion of soil.
- (5) Lawn watering, landscape irrigation, or other irrigation water.
- (6) A diverted stream flow or natural spring.
- (7) Uncontaminated pumped groundwater or rising groundwater.
- (8) Uncontaminated groundwater infiltration, as that term is defined in 40 CFR Section 35.2005(b)(20), into the stormwater [~~storm-water~~] drainage system.
- (9) A foundation drain, crawl space pump, footing drain, or sump pump, if the discharge is uncontaminated.
- (10) A potable water source that does not contain[~~ing~~]:
 - (A) a harmful quantity of a pollutant; or
 - (B) any harmful substance or material from the cleaning or draining of a storage tank or other container.
- (11) Air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or other source of pollutant.
- (12) Individual residential car washing.
- (13) A riparian habitat or wetlands.
- (14) Water used in [~~street~~] washing streets, sidewalks, parking lots, driveways, or other structures that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or a harmful quantity of any other [~~harmful~~] cleaning substance.

(15) Stormwater [~~Storm water~~] runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber, emissions filter, or other source of pollutant.

(16) Swimming pool water that:

(A) has been dechlorinated so that total [~~residual~~] chlorine residual is less than one [~~five~~] mg/L[1]; [~~and~~]

(B) is not able to be discharged into the wastewater system because:

(i) the swimming pool discharge point is located more than 200 linear feet from the closest access point to the wastewater system; or

(ii) the property on which the swimming pool is located:

(aa) does not receive service from the city's wastewater system; and

(bb) is not served by an on-site wastewater treatment facility with adequate capacity to receive the discharge of the swimming pool water;

(C) is not the result of pool filter backwash; and

(D) does not contain[s]:

(i) any [~~no harmful quantity of muriatic acid or other~~] chemical used in the treatment or disinfection of swimming pool water or in pool cleaning;

(ii) a pH of the water of less than five;

(iii) algaecides or visible algae; or

(iv) a specific conductivity in excess of 150 micromhos per centimeter at 25 degrees Centigrade.

(17) A temporary car wash sponsored by a civic group, school, or a religious or other nonprofit organization.

(18) Other allowable non-stormwater discharges listed in 40 CFR Section 122.26(d)(2)(iv)(B)(1), as amended.

(c) No defense to prosecution is available under Subsection (b) if:

(1) the discharge in question has been determined by the director to be the source of a pollutant to the stormwater [~~storm water~~] drainage system, waters of the United States, or state water;

(2) written notice of such determination has been provided to the discharger;
and

(3) the discharge has occurred more frequently than or beyond the limits permitted by the director on a case by case basis.

(d) In any civil or criminal action, the discharger has the burden of proving that a discharge in violation of Subsection (a) is uncontaminated or falls within a defense to prosecution under Subsection (b). Prima facie proof that a discharge is uncontaminated must be made in the form of an analysis by a certified laboratory, using standard methods or procedures prescribed by EPA or TCEQ regulations. A copy of the laboratory analysis must be sent to the director.

(e) A person commits an offense if he discharges or causes to be discharged into the stormwater [~~storm-water~~] drainage system, waters of the United States, or state water a pollutant or substance that causes or contributes in causing the city to violate a water quality standard, the city's NPDES permit or TPDES permit, or any state-issued discharge permit for discharges from the city's stormwater [~~storm-water~~] drainage system.

(f) A person commits an offense if he discharges or allows or permits the discharge of any of the following into the stormwater [~~storm-water~~] drainage system:

(1) Oil, used [~~Used~~] oil, [~~antifreeze,~~] or any [~~other~~] motor vehicle fluid.

(2) Industrial waste.

(3) Hazardous waste, including household hazardous [~~household~~] waste.

(4) Domestic wastewater, septic tank waste, grease trap waste, or grit trap waste.

(5) Garbage, rubbish, or yard waste.

(6) Wastewater from:

(A) any commercial vehicle [~~car~~] washing facility, including any commercial car wash located on the premises of any office building or in any parking garage;

(B) 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;

(C) any washing, cleaning, or maintenance of any business, commercial, or public service vehicle (including a truck, bus, or heavy equipment) by a business or public entity that operates more than two of such vehicles;

(D) the washing, cleaning, de-icing, or other maintenance of aircraft;

(E) any [commercial] mobile power [washer or the] washing operation [or other cleaning of a building exterior] if the wastewater contains a harmful quantity of any soap, detergent, degreaser, solvent, emulsifier, dispersant, or other [harmful] cleaning substance or pollutant;

(F) floor, rug, or carpet cleaning;

(G) the washdown or other cleaning of pavement if the wastewater contains a[ny] harmful quantity of any soap, detergent, solvent, degreaser, emulsifier, dispersant, or other [harmful] cleaning substance or pollutant; [ø]

(H) the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum product or hazardous substance has occurred, unless all harmful quantities of the released material have been previously removed; or

(I) a portable restroom or other temporary sanitary facility.

(7) Effluent from a cooling tower, condenser, compressor, emissions scrubber, or emissions filter or the blowdown from a boiler.

(8) Ready-mixed concrete, mortar, ceramic or asphalt base material, or hydromulch material, or wastewater from the cleaning of vehicles or equipment containing or used in transporting or applying such material.

(9) Runoff or washdown water from any animal pen, kennel, or fowl or livestock containment area.

(10) Filter backwash from a swimming pool, fountain, or spa.

(11) Swimming pool water that [contains]:

(A) has a total [residual] chlorine residual of one [five] mg/L[1] or more; [ø]

(B) is from a swimming pool with a discharge point located 200 linear feet or less from the closest access point to the wastewater system;

(C) is from a swimming pool that is served by an on-site wastewater treatment facility with adequate capacity to receive the discharge of the swimming pool water; or

(D) contains:

(i) a[ny harmful] quantity of muriatic acid sufficient to reduce the pH of the water to less than five; [ø]

(ii) any other chemical used in the treatment or disinfection of swimming pool water or in pool cleaning;

(iii) algaeicides or visible algae; or

(iv) a specific conductivity in excess of 150 micromhos per centimeter at 25 degrees Centigrade.

(12) Discharge from water line disinfection by superchlorination or other means if:

(A) the total [~~residual~~] chlorine residual is at one [~~five~~] mg/L[†] or more; [ø†]

(B) the discharge contains any hazardous substance or exceeds the specific surface water quality standards established in Chapter 307, Title 30 of the Texas Administrative Code, as amended; or

(C) the discharge causes erosion of the soil [~~harmful quantity of another chemical used in line disinfection~~].

(13) Fire protection water containing oil or a hazardous substance or material, unless treatment adequate to remove pollutants occurs prior to discharge, except that this prohibition does not apply to discharges or flow from fire fighting by the fire department.

(14) Water from a water curtain in a spray room used for painting vehicles or equipment.

(15) Contaminated runoff from a vehicle wrecking yard.

(16) Any substance or material that will damage, block, or clog the stormwater [~~storm water~~] drainage system.

(17) Any discharge from a petroleum storage tank, any leachate or runoff from soil contaminated by a leaking petroleum storage tank, or any discharge of pumped, confined, or treated wastewater from the remediation of a petroleum storage tank release, unless the discharge complies with all state and federal standards and requirements and does not contain a harmful quantity of any pollutant.

(18) Any paint, finish, or paint cleaning material, including but not limited to auto body paint, latex paint, wood finishing material, texturing product, varnish, paint thinner, or paint solvent of any kind.

(19) A harmful quantity of dust resulting from sanding, grinding, cutting, sawing, or storage of any materials.

(g) A person commits an offense if he discharges into the stormwater [~~storm-water~~] drainage system a harmful quantity of sediment, silt, earth, soil₂[-] or other material associated with:

(1) clearing, grading, excavating, or other construction activities; or

(2) landfilling or other placement 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.

(h) A person commits an offense if he connects a line that conveys domestic wastewater or industrial waste to the stormwater [~~storm-water~~] drainage system or knowingly allows such a connection to continue.

SEC. 19-118.3. REGULATION OF PESTICIDES, HERBICIDES, AND FERTILIZERS.

(a) Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer within the city must comply fully with all applicable state and federal statutes and regulations, including but not limited to:

(1) the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA);

(2) federal regulations promulgated pursuant to FIFRA; and

(3) applicable provisions of Chapters 63_[-75] and 76 of the Texas Agriculture Code, as amended, and state regulations promulgated pursuant to those chapters.

(b) A license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for the sale, distribution, application, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must be presented to the director, the environmental health officer, any city code compliance officer, and any police officer for examination upon request.

(c) No person shall, within the city, use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.

(d) No person shall, within the city, use, dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer or a pesticide, herbicide, or fertilizer container in a manner that the person knows or reasonably should know is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the stormwater [~~storm-water~~] drainage system, waters of the United States, or state water.

SEC. 19-118.4. USED OIL REGULATION; HOUSEHOLD HAZARDOUS [~~HOUSEHOLD~~] WASTE.

(a) A person commits an offense if he:

(1) discharges used oil into the stormwater [~~storm-water~~] drainage system, into a private drainage system that feeds into the stormwater [~~storm-water~~] drainage system, or into any septic tank, surface water, groundwater, or watercourse within the city;

(2) mixes or commingles used oil with solid waste that is to be disposed of in a landfill, or knowingly and directly disposes of used oil on land or in a landfill; or

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

(b) All businesses that change motor oil for the public, all municipal landfills, and all fire stations are encouraged to serve as public used-oil collection centers as provided for in Section 371.024 of the Texas Health and Safety Code, as amended.

(c) Any retail dealer that annually sells directly to the public more than 500 gallons of oil in containers for use off premises shall post in a prominent place on its premises a sign, provided by the city or by the state, informing the public that improper disposal of used oil is prohibited by law. The sign must prominently display the toll-free telephone number of the state used-oil information center.

(d) Household hazardous [~~Hazardous household~~] waste must be segregated from other household waste and discarded only at certain specified locations, such as at a Dallas County household hazardous [~~household~~] waste collection event or at the permanent household hazardous [~~household~~] waste collection site.

SEC. 19-118.5. DISCHARGE PREVENTION, REPORTING, AND CLEANUP.

(a) A secondary containment device used by an operator as a best management practice or installed or constructed in accordance with a stormwater pollution prevention plan must:

(1) be designed, installed, and constructed in a manner sufficient to contain a spill or leak from the storage container and prevent a discharge;

(2) have:

(A) an overflow protection device, such as a direct vision gauge, an alarm with audible or visual signal, or a bypass to an alternate containment device;

(B) sufficient freeboard to prevent spillage from an uncovered storage container; and

(C) a controlled drainage system; and

(3) hold:

(A) a volume of at least:

(i) 110 percent of the storage container volume for a single storage container; or

(ii) 150 percent of the volume of the largest storage container or 110 percent of the aggregate volume of all storage containers, whichever is greater, for multiple storage containers; and

(B) an additional capacity of at least:

(i) 4.5 inches of rainwater, if the secondary containment device is open to precipitation; and

(ii) the amount of water produced by 20 minutes of flow from all fire sprinkler heads, if any, situated over the secondary containment device.

(b) Discharge materials must be discharged to separate containment devices or systems if, when combined, the materials could cause:

(1) a fire;

(2) an explosion;

(3) a flammable, toxic, or poisonous gas; or

(4) the deterioration of a storage container or secondary containment device.

(c) An operator shall keep the drainage system of a secondary containment device closed and any drainage pumps turned off, except when the drainage process is monitored for compliance with the surface water quality standards set forth in Chapter 307, Title 30 of the Texas Administrative Code, as amended.

(d) No operator may release accumulated rainwater or sprinkler flow water from a secondary containment device until the operator has received confirmation from an EPA-certified laboratory that the water to be discharged meets the surface water quality standards set forth in Chapter 307, Title 30 of the Texas Administrative Code, as amended. A copy of the laboratory analysis must be provided to the director upon request.

(e) A discharger of a reportable quantity of a hazardous or extremely hazardous substance into the stormwater [~~storm-water~~] drainage system, waters of the United States, or state water shall telephone and notify the director, the TCEQ, and the fire department immediately after becoming aware of the discharge. A discharger of a reportable quantity of any of the following substances into the stormwater [~~storm-water~~] drainage system, waters of the United States, or state water shall telephone and notify the director concerning the incident within 24 hours after 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 but has been discharged in a quantity that exceeds surface water quality standards as set forth in Chapter 307, Title 30 of the Texas Administrative Code, as amended.

(f)[~~(b)~~] The notification required by Subsection (e)[~~(a)~~] of this section 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.

(g)~~(e)~~ Within 15 days after a discharge under this section, the discharger shall, unless expressly waived in writing by the director, submit a written report containing each item of information required by Subsection (f)~~(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.

(h)~~(d)~~ The notifications required by Subsections (f)~~(b)~~ and (g)~~(e)~~ of this section 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.

(i)~~(e)~~ A release report required by a state or federal regulatory authority that contains the information described in Subsections (f)~~(b)~~ and (g)~~(e)~~ of this section meets the reporting requirements of Subsection (g)~~(e)~~, upon submittal of the report to the director.

(j)~~(f)~~ The owner or operator of any facility, vehicle, or other source responsible for a discharge described in Subsection (e)~~(a)~~ of this section shall:

- (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.

(k)~~(g)~~ A discharger commits an offense if he:

(1) fails or refuses to report the discharge within the time required by Subsection (e)~~(a)~~ after becoming aware of the discharge;

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

(3) fails or refuses to take the necessary action to clean up pollution or damage to the stormwater [~~storm-water~~] drainage system, waters of the United States, or state water, or to other property, that is caused by the discharge.

SEC. 19-118.6. STORMWATER [~~STORM-WATER~~] DISCHARGES FROM CONSTRUCTION ACTIVITIES.

(a) An operator of a construction site shall comply with all terms and conditions of a construction general permit or an individual [~~specific NPDES~~] permit, whichever is obtained for or applicable to the construction site [~~from the EPA~~]. An operator of a construction site shall provide the director with a copy of the stormwater pollution prevention plan required by the construction general permit or individual permit and shall implement [~~to the maximum extent practicable, use~~] best management practices to control and minimize the discharge into the stormwater [~~storm-water~~] drainage system, waters of the United States, and state water of any sediment, silt, earth, soil, or other material from the construction site [~~associated with clearing, grading, excavation, land filling, and other construction activities~~]. Erosion control elements meeting the criteria for best management practices must be installed [~~either~~] before any construction site is established [~~or~~] in accordance with an installation schedule as specified in a stormwater [~~storm-water~~] pollution prevention plan required by the construction general permit or individual [~~a specific NPDES~~] permit.

(b) The best management practices referred to in Subsection (a) of this section may include, but are not 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 (as described in EPA and TCEQ regulations) or permanently ceased. Stabilization measures may include:

- (A) temporary or permanent seeding;
- (B) mulching;
- (C) geotextiles;
- (D) sod stabilization;
- (E) vegetative buffer strips;

- (F) protection of trees;
- (G) preservation of mature vegetation; and
- (H) other appropriate measures.

(2) Using 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 feasible.

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

(4) Preventing the discharge of building materials, including cement, lime, concrete, concrete washout water, concrete residue, and mortar, into the stormwater [~~storm water~~] drainage system, waters of the United States, or state water.

(5) Providing general good housekeeping measures to prevent and contain spills of paints, solvents, fuels, septic waste, and other hazardous chemicals and pollutants associated with construction, and to ensure proper cleanup and disposal of any spills in compliance with state, federal, and local requirements;

(6) Implementing effective [~~proper~~] waste disposal and waste management techniques, including providing secondary containment, covering waste materials, and minimizing ground contact with hazardous chemicals and trash.

(7) Providing for the timely maintenance of vegetation, erosion, and sediment control devices, and other best management practices to keep vegetation, erosion, and sediment control devices in good and effective operating condition.

(8) Installing structural measures during the construction process to control pollutants in stormwater [~~storm water~~] discharges that will occur during construction activities and after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Installed structural measures may include, but are not limited to:

- (A) stormwater [~~storm water~~] detention structures, including wet ponds;
- (B) stormwater [~~storm water~~] retention structures;
- (C) flow attenuation by use of open vegetative swales and natural depressions;
- (D) other velocity dissipation devices;

- (E) infiltration of runoff on site; and
- (F) sequential systems that combine several practices.

(9) Preventing dust caused by the sanding, grinding, cutting, or sawing of any materials from accumulating in an area greater than 25 square feet.

(10) Taking all of the following actions for an on-site concrete batch plant used in connection with the construction site:

(A) Constructing continuous interior berms around all:

(i) concrete batch plant equipment, including but not limited to concrete mixing equipment, silos, concrete drop points, conveyor belts, and admixture tanks;

(ii) concrete truck loading and unloading areas; and

(iii) concrete truck washout facilities.

(B) Directing all stormwater and non-stormwater from the concrete batch plant to containment ponds, tanks, or other stormwater detention structures.

(C) Providing on-site lined concrete batch plant washout facilities with sufficient volume to contain all liquid and waste generated by on-site concrete batch plant operations.

(D) Conforming on-site concrete batch plant operations to all requirements of the construction general permit or individual permit applicable to the construction site.

(11) Storing bagged, boxed, and bucketed materials on pallets and covering those materials when they are not in use and prior to and during any precipitation event.

(12) Maintaining an adequate supply of appropriate spill cleanup material near the designated storage area for bagged, boxed, and bucketed materials.

(13) Preventing the operation of tracked equipment within any body or course of surface water unless the director has determined that the surface water has been suitably diverted around the active construction area.

(c) The operator of a construction site is [~~only~~] responsible for the installation and maintenance of stormwater [~~storm water~~] management measures until [~~prior to~~] final stabilization of the site has been completed and the notice of termination has been received by the director [~~is not responsible for maintenance after storm water discharges associated with construction activity have terminated~~].

(d) The operator of a construction site shall inspect the site and any facilities on the site in accordance with the requirements of the construction general permit or the individual [NPDES] permit, whichever is obtained for or applicable to the site [~~from the EPA~~].

(e) The director may require that plans and specifications prepared for the construction of site improvements illustrate and describe what best management practices will be implemented at the construction site.

(f) The city may deny approval of any building permit, street or sidewalk cut permit, plumbing permit, service connection permit, grading permit, subdivision plat, site development plan, or other city approval necessary to commence or continue construction or development, if the management practices described in the plans and specifications, or observed upon a site inspection by the director, are determined not to control and reduce, to the maximum extent practicable, the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, demolishing, excavating, and other construction activities.

(g) An owner of a construction site is jointly and severally responsible with the operator for compliance with the requirements of this section, even if the owner is not an operator of the site.

(h) Any contractor or subcontractor on a construction [~~activity~~] site, who is not an owner or operator of the site but who is responsible under the construction contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any intentional, willful, or negligent failure to adequately implement that control measure if such failure causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit or TPDES permit, or any other discharge permit issued by a state or federal regulatory authority for discharges from the stormwater [~~storm water~~] drainage system.

(i) An owner or operator of a construction site [~~who is required to obtain an NPDES permit for storm water discharges associated with construction activity~~] shall provide copies [submit a copy] of all [the] notices of intent, construction site notices, notices of change, and notices of termination to the director in accordance with the requirements of the construction general permit or the individual [NPDES] permit.

(j) The director may, in the interest of public safety, issue a written notice to an operator of a construction site that:

(1) authorizes the temporary removal or alteration of structural measures being used as a best management practice under Subsection (b) if:

(A) flooding or significant standing of water occurs in a public right-of-way near the construction site during a representative storm event; or

(B) the director determines that a representative storm event is impending, and flooding or significant standing water previously occurred in a public right-of-way near the construction site during a representative storm event; and

(2) requires the replacement of all structural measures removed pursuant to the notice upon the earlier of recession of standing water from the public right-of-way or 24 hours following the last rainfall.

SEC. 19-118.7. STORMWATER ~~[STORM WATER]~~ DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY.

(a) An operator of [conducting] an industrial facility ~~[activity]~~ shall comply with all terms and conditions of the multi-sector general permit ~~[an industrial general permit]~~ or an individual ~~[specific]~~ NPDES or TPDES permit, whichever is obtained for the activity conducted at the industrial facility ~~[from the EPA]~~. An operator of an industrial facility shall use best management practices to control and minimize the discharge into the stormwater drainage system, waters of the United States, and state water of any material or substance handled, stored, or generated by the industrial facility and any pollutant that may be attributed to those materials or substances. An operator is required to retain records of all monitoring information collected for a six-year period from the date of sample collection. An operator shall submit any ~~[EPA]~~ monitoring results or a summary of results as required by the multi-sector general permit or an individual permit to the director and, upon request, ~~[and]~~ shall submit copies of discharge monitoring reports to the director.

(b) The best management practices referred to in Subsection (a) of this section may include, but are not limited to, the following measures ~~[A discharge composed of coal pile runoff must comply with the following limitations]:~~

(1) Providing general good housekeeping measures to ensure that areas within the industrial facility that may contribute pollutants to stormwater discharge are routinely cleaned and kept orderly ~~[No discharge may at any time exceed a maximum concentration of 50 mg/l total suspended solids, nor may such runoff be diluted with storm water or other flow in order to meet this limitation].~~

(2) Implementing effective waste disposal and waste management techniques, including but not limited to providing secondary containment, covering waste materials, and minimizing ground contact with hazardous chemicals and trash ~~[The pH of such a discharge must be within the range of 6.0 to 9.0].~~

(3) Implementing and maintaining spill prevention and response measures, including but not limited to secondary containment, labeling, and cleanup techniques.

(4) Implementing and maintaining erosion prevention measures, including but not limited to soil stabilization through vegetative cover, contouring slopes, paving, and structural controls.

(5) Implementing and maintaining structural controls, including but not limited to oil-water separators, sediment ponds, catch basins, grassed swales, and berms.

(6) Eliminating or reducing exposure of garbage and refuse materials to precipitation or runoff prior to disposal.

(7) Eliminating or reducing exposure of containers or equipment that are covered or partially covered with oil, grease, rust, or other potentially polluting substances to precipitation or runoff.

(c) ~~[An untreated overflow from a facility designed, constructed, and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event is not subject to the 50 mg/l limitation for total suspended solids.~~

~~(d)~~ If an industrial facility is required by an individual permit or multi-sector [Part VI.B.2 of the industrial] general permit to conduct annual, semi-annual, or other periodic monitoring, the operator shall:

(1) submit to the director a signed copy of each ~~[semi-annual]~~ monitoring report~~[,]~~ prepared in compliance with the applicable individual permit or multi-sector [Part VI.D of the industrial] general permit~~;~~

(2) ~~[(e) — If an industrial facility is required by Part VI.B.3 of the industrial general permit to conduct annual monitoring, the operator shall]~~ retain records of the monitoring results at the facility and make them available to the director upon request; and

(3) when [-When] requested by the director, ~~[the operator shall]~~ prepare a written report of any [the annual] monitoring conducted by the operator and submit it to the director. ~~[The director may require written reports of any monitoring, whether annual or periodic, to be submitted upon request.]~~

(d) If an industrial facility is required by an individual permit or multi-sector general permit to prepare an annual comprehensive site compliance evaluation report, the operator shall submit to the director a signed copy of each report.

~~(e)[(f)]~~ By written notice, the director may require any industrial facility identified as not being in compliance with this section to implement a monitoring program that includes the written submission of quantitative data on the following constituents:

(1) ~~[Any pollutants limited in effluent guidelines subcategories, where applicable.~~

(2) Any pollutant listed in any applicable multi-sector general [an existing NPDES] permit or in Chapter 307, Title 30 of the Texas Administrative Code, as amended [for the facility].

~~[(3) Oil and grease, COD, pH, BOD, TSS, total phosphorous, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen.]~~

(2) [(4)] Any information on discharges required under 40 CFR Part [Section] 122[-21(g)(7)(iii) and (iv)].

(f) [(g)] By written notice, the director may require any industrial facility regulated by this section to conduct semi-annual or annual monitoring of stormwater [~~storm water~~] discharges, or the director may specify an alternative monitoring frequency or specify additional parameters to be analyzed. The director may require written reports of any additional monitoring to be submitted.

(g) [(h)] An operator of an industrial facility regulated by this section shall retain the stormwater [~~storm water~~] pollution prevention plan, all records of monitoring information, copies of all required reports, and records of all data used to complete the notice of intent for at least three years after submitting a notice of termination required by Subsection (i) [(j)] of this section.

(h) [(i)] No stormwater [~~storm water~~] discharge associated with industrial activity may contain any [~~of the following~~] hazardous metals in a quantity [~~concentration~~] that exceeds [~~either~~] the maximum allowable concentrations [~~(in mg/l)~~] listed in the individual permit, multi-sector general permit, or Chapter 307, Title 30 of the Texas Administrative Code, as amended [~~below for each metal or the maximum concentrations for each metal allowed under federal law~~], whichever limit is more stringent.[:

Total Metal	Monthly Average (mg/l)	Daily Composite (mg/l)	Single Grab (mg/l)
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	0.1	0.2
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

(i) [(j)] The operator of an industrial facility regulated by this section shall submit a notice of termination to the director, which includes the information required for notices of termination under [~~Part IX of~~] the individual permit or multi-sector [~~industrial~~] general permit, whenever:

(1) all stormwater [~~storm-water~~] discharges associated with industrial activity that are authorized by this article and by the NPDES permit or TPDES permit are eliminated at the facility; or

(2) the operator of stormwater [~~storm-water~~] discharges associated with industrial activity at the facility changes.

(j)[~~(k)~~] An owner of a facility with a stormwater [~~storm-water~~] discharge associated with industrial activity regulated by this section, whether or not the owner is an operator of the facility, is jointly and severally responsible for compliance with:

(1) the best management practices measures required in the stormwater [~~storm-water~~] pollution prevention plan for the facility; and

(2) the effluent limitations for [~~coal-pile runoff and~~] hazardous metals specified in Subsection[s] (h) [~~(b), (c) and (i)~~] of this section.

(k)[~~(l)~~] Upon request by the director, an owner or operator of any industrial facility that experiences a problem complying with the requirements of this section, the multi-sector [~~industrial~~] general permit, or any applicable individual [~~or group NPDES~~] permit issued for stormwater [~~storm-water~~] discharges from the facility shall consult with the director in an attempt to achieve compliance as soon as practicable. If compliance is not achieved to the director's satisfaction, the director may report the noncompliance to the EPA or to the TCEQ [~~state~~], or the director may commence or request commencement of any enforcement action authorized under Section 19-118.1 of this article. Exercising the option for consultation under this subsection is not a bar against, or prerequisite to, the taking of any other enforcement action against an owner or operator of a facility.

(l) The operator of an industrial facility that qualifies for a no exposure exclusion under the multi-sector general permit shall provide the director with a copy of the no exposure certification provided to the TCEQ as required by the multi-sector general permit and a copy of the written notification of coverage and the authorization number received from the TCEQ. The director may inspect the industrial facility and conduct monitoring and sampling of any discharge from the industrial facility to verify the no exposure exclusion.

(m) Upon request by the director, an owner or operator of an industrial facility shall provide the director with documentation of the standard industrial classification of the operation conducted at the industrial facility. The documentation may include, but is not limited to, a copy of the business license application filed for the industrial facility or copies of organizational or tax documents for the business entity that operates the industrial facility, provided the standard industrial classification is stated on the copies provided. If an owner or operator fails or refuses to provide documentation of the standard industrial classification upon request by the director, then, for purposes of enforcing this section, the director may assign to the industrial facility the standard industrial classification under the multi-sector general permit that best describes the activities observed at the industrial facility, as determined by the director.

SEC. 19-118.8. COMPLIANCE MONITORING.

(a) The director may enter the premises of any person who is discharging stormwater [~~storm water~~] into the stormwater [~~storm water~~] drainage system, waters of the United States, or state water to determine if the discharger is complying with all requirements of this article and of any applicable state or federal discharge permit, limitation, or requirement.

(b) A discharger shall:

(1) allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties; [~~and~~]

(2) make available to the director, within two hours of [~~upon~~] request, any stormwater [~~storm water~~] pollution prevention plans or modifications to plans, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and other records, reports, and documents required by the NPDES permit or TPDES [~~related to compliance with this article and with any state or federal storm water discharge~~] permit; and

(3) retain and provide to the director, upon request, any annual, semi-annual, or periodic monitoring reports as required by the NPDES or TPDES permit.

(c) If a discharger has security measures in force that require proper identification and clearance before entry into the premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director is permitted to enter without delay for the purpose of performing the director's responsibilities.

(d) The director shall have the right to install on the discharger's property, or to require installation of, such devices as are necessary to conduct sampling or metering of the discharger's operations.

(e) The director may require any discharger that contributes a harmful quantity of a pollutant to the stormwater [~~storm water~~] drainage system, waters of the United States, or state water to conduct specified sampling, testing, analysis, and other monitoring of its stormwater [~~storm water~~] discharges. The director may specify the frequency and parameters of any required monitoring.

(f) The director may require the discharger to install monitoring equipment as necessary at the discharger's expense. The discharger, at its own expense, shall at all times maintain the facility's sampling and monitoring equipment in a safe and proper operating condition. Each device used to measure stormwater [~~storm water~~] flow and quality must be calibrated to ensure accuracy.

(g) Any temporary or permanent obstruction to safe and easy access to a facility that is to be inspected or sampled must be promptly removed by the discharger at the written or verbal request of the director and may not be replaced. The cost of clearing access to the facility must be borne by the discharger.

(h) A person commits an offense if he:

(1) lawfully consents to the director's entry into a facility that discharges stormwater [~~storm water~~], but then knowingly obstructs or hinders the director in accessing the facility for the lawful purposes of inspection or sampling; or

(2) knowingly obstructs or hinders the director in accessing, for the lawful purposes of inspection or sampling pursuant to a lawfully issued administrative search warrant, a facility that discharges stormwater [~~storm water~~].

(i) Nothing in this section prohibits a person from exercising the constitutional right to require that entry to a site or any other property be made pursuant to a validly issued administrative or other search warrant, except where a search warrant is not required by law.”

SECTION 2. That CHAPTER 19 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

RO/DCC/00001

Memorandum



CITY OF DALLAS

DATE October 21, 2011

TO Members of the Transportation and Environment Committee:
Linda L. Koop (Chair), Sheffie Kadane (Vice Chair), Sandy Greyson, Delia Jasso,
Vonciel Jones Hill, Pauline Medrano

SUBJECT Draft Agenda Item #39 on the November 7, 2011 City Council Agenda

SUBJECT

An ordinance amending Chapter 5A of the Dallas City Code to match recent state law changes: (1) provide for year-round enforcement of motor vehicle idling restrictions; and (2) allow a motor vehicle to idle under certain circumstances to provide air conditioning or heating in an armored vehicle - Financing: No cost consideration to the City

BACKGROUND

The proposed ordinance would be a component of the City's efforts to curb air pollution in the Dallas area. Specifically, the ordinance would amend Chapters 5A of Dallas City Code to prohibit extended truck idling on a year-long basis versus the current time frame of ozone season (April 1st - October 31st of each calendar year) and thus further reduce engine emissions as well as enhance compliance, education, and enforcement. In addition, armored cars would be exempt from the idling restrictions.

On May 23, 2007, City Council passed an ordinance prohibiting idling of heavy duty vehicles.

FISCAL INFORMATION

No cost consideration to the City

A handwritten signature in black ink, appearing to read 'Jill Jordan'.

Jill Jordan
Assistant City Manager

c: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Thomas P. Perkins, Jr. City Attorney
Rosa Rios, Acting City Secretary
Craig Kinton, City Auditor
Judge C. Victor Lander, Administrative Judge
A.C. Gonzalez, First Assistant City Manager
Ryan S. Evans, Assistant City Manager
Forest Turner, Assistant City Manager
Joey Zapata, Interim Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Edward Scott, Director, Controller's Office
Frank Libro, Public Information Office
Theresa O'Donnell, Director, Sustainable Development and Construction
Helena Stevens-Thompson, Assistant to the City Manager – Council Office