

ORDINANCE NO. 785
{*Stormwater Regulations*}

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARKER, TEXAS, ESTABLISHING A REGULATIONS FOR STORMWATER IN THE CITY OF PARKER, TEXAS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHERAS, the City of Parker, Texas has the legal authority to pass and enforce regulations regarding the treatment of stormwater within its corporate limits; and,

WHEREAS, the City Council of the City of Parker, Texas believes regulations regarding the treatment of stormwater are in the best interest of the health and safety of the citizens of Parker, Texas; and,

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

SECTION 1.

TITLE:

These regulations shall be officially known, cited, and referred to as the "stormwater regulations" of the City (hereinafter "this chapter"):

I. GENERAL PROVISIONS:

(a) **PURPOSES**. The purposes and objectives of this article are as follows:

(1) To maintain and improve the quality of surface water within the City of Parker, Collin County, and all Waters of the U.S. (See 40 CFR 122.2 or definition of Waters of the U.S. in MS4 General Permit).

(2) To prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the City of Parker, the municipal separate stormwater sewer system (MS4) and natural waters within the City of Parker.

(3) To promote public awareness of the hazards 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 water of the City.

(4) To encourage recycling of used motor oil and safe disposal of other hazardous consumer projects.

(5) To facilitate compliance with state and federal standards and permits by owners and operators of industrial and construction site within the City.

(6) To enable the City to comply with all federal and state laws and regulations applicable to stormwater discharges.

(b) ADMINISTRATION. Except as otherwise provided herein, the Director of Public Works (DPW), and/or Code Enforcement Officer (CEO) shall administer, implement, and enforce any the provisions of this article. Any powers granted to or duties imposed upon these people may be authorized to other personnel (aka, city personnel or third party) in accordance with 30 TAC § 305.44 and 30 TAC 305.128.

(c) DEFINITIONS. Unless a provision explicitly states otherwise, the following terms shall have the meanings hereinafter designated:

(1) Agricultural stormwater runoff. Any stormwater runoff from orchards, cultivated crops pasture, range lands, and other nonpoint source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities a defined in 40 CFR Section 122.24.

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

(3) Bioretention. A method of treating surface runoff and settling of suspended solids through a terrestrial aerobic (upland) plant/soil/microbe complex to remove pollutants through a variety of physical, chemical and biological processes.

(4) Channel. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water. This shall include the bed, the banks, and the entire erosion hazard setback floodplain, zone, and easement.

(5) City. The City of Parker. For purposes of this ordinance, the "City" refers to the jurisdiction within the City limits. It also refers to the system of conveyances (including roads with drainage systems, municipal streets, catch basins curbs, gutters, ditches manmade channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage, as defined in 40 CFR 122.26.

(6) City Drainage System. The natural or artificial system for moving, storing, or otherwise effecting the flow of stormwater, whether publicly or privately owned or maintained.

(7) City Inspector(s). Refers to the Director of Public Works, Code Enforcement Officer, or their duly authorized representative who go on-site to determine if the provisions of this article are being met.

(8) Code Enforcement Officer. The person appointed by the City to enforce city codes or his/her duly authorized representative.

(9) Commencement of construction. The disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

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

(11) Debris. Any solid waste or yard waste.

(12) Stormwater detention. The temporary storage of storm runoff with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

(13) Stormwater detention facility. A detention basin or alternative structure designed for the purpose of temporary storage of surface runoff and gradual release of stored water at controlled rates.

(14) Director of Public Works (DPW). The person appointed by the City to manage field operations and provide environmental education, or his /her duly authorized representative.

(15) Discharge. Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the City of Parker drainage system or into waters of the US.

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

(17) Domestic sewage. 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.

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

(19) Extremely hazardous substance. Any substance listed in the Appendices to 40 CFR 355, Emergency Planning and Notification.

(20) Facility. Any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

(21) Fertilizer. A solid or nonsolid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of crop, or a mixture of two or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

(22) Final stabilization. The status when all soil disturbing activities at a site have been completed, and a uniform perennial vegetative cover with a density of 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, landscaping or geotextiles) have been employed.

(23) Fire department. The Fire Department of the City of Parker, or any duly authorized representative thereof.

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

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

(26) Generally accepted maintenance activities. Procedures, work tasks, technique and schedules established for the sustainability and function of a stormwater feature published by a governmental agency, educational organization, professional organization or other subject matter expert.

(27) Harmful quantity. The amount of any oily substance that will cause pollution of waters of the U.S. (Clean Water Act as amended by the Oil Pollution Act of 1990)

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

(29) Hazardous substance. Any substance listed in Table 302.4 of 40 CFR 302.

(30) Hazardous waste. Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR 261.

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

(32) Herbicide. A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

(33) Industrial waste. Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade or business.

(34) Maintenance activities. Practices required for the long-term sustainability and function of a component or system. This includes periodic inspections, debris removal and disposal, replanting of trees, maintaining vegetation, removal of silt, and repair of manmade

components. The maintenance activities in natural channels and riparian areas shall be as minimal as possible.

(35) Motor vehicle fuel. Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.

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

(37) Municipal separate storm sewer system (MS4). The system of conveyances (including roads with drainage systems, municipal streets, catch basins curbs, gutters, ditches manmade channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

(38) Municipal solid waste. Solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.

(39) Natural channels. Channels left in or near their natural state, maintaining the natural alignment and grade and riparian corridor.

(40) NPDES general permit for stormwater discharges associated with industrial activity (or industrial general permit). The industrial general permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 1217 on September 9, 1992, and any subsequent modifications or amendments thereto.

(41) NPDES general permit for stormwater discharges from construction sites (or construction general permit). The construction general permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41217 on September 9, 1992, and any subsequent modifications or amendments thereto.

(42) NPDES permit. A permit issued by EPA (or by the state under authority delegated pursuant to 33 USC sec. 1342(b)), as amended, that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(43) Nonpoint source. Any source of any discharge of a pollutant that is not a “point source.”

(44) Notice of Intent (NOI). The notice of intent that is required by either the industrial general or the construction general permit.

(45) Notice of Termination (NOT). The notice of termination that is required by either the industrial general permit or the construction general permit.

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

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

(48) Owner. The person who owns a facility or part of a property.

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

(50) Pesticide. A substance or mixture or 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.

(51) Petroleum product. 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, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

(52) Petroleum storage tank (PST). Any one or combination of above ground or underground storage tanks that contain petroleum products and any connecting underground pipes.

(53) Point source. 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. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

(54) Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The term “pollutant” does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

(55) Pollution. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or

welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(56) Public nuisance. A condition that is injurious to health, or is indecent or offensive to the senses, or any obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; or, affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(57) Qualified personnel. Persons who possess the appropriate competence, skills and ability (as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.

(58) Registered professional engineer (RPE). A person who has been duly licensed and registered by the Texas Board of Registration for Professional Engineers to engage in the practice of engineering in the State of Texas.

(59) Reportable quality (RO). For any “hazardous substance,” the quantity established and listed in Table 302.4 of 40 CFT 302, as amended; for any extremely hazardous substance,” to quantity established in 40 CFR 355, as amended, and listed in Appendix A thereto.

(60) Rubbish. Non-putrescible solid waste, excluding ashes, that consist of: (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, melt furniture, and similar materials that do not burn at ordinary incinerator temperature (1,600 to 1,800 degrees Fahrenheit).

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

(62) Septic tank waste. Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

(63) Service station. Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

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

(65) 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.

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

(67) State. The State of Texas.

(68) Stormwater. Stormwater runoff, snow melt runoff, and surface runoff and drainage.

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

(70) Stormwater feature. A natural or manmade component or system which remains as a permanent part of a development also known as structural BMPs. The purpose of which includes stormwater conveyance, stormwater quality improvement, flood mitigation, or erosion reduction. The features include but are not limited to, channels, detention facilities, retention ponds, bioretention, rain harvest systems, landscape buffers, riparian areas, enhanced swales, filter strips, permeable pavers and manufactured devices.

(71) Stormwater Pollution Prevention Plan (SWPPP). A plan required by either the construction general permit or the industrial general permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity at the facility.

(72) Uncontaminated. Not containing a harmful quantity of any substance.

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

(74) Water in the state (or water). Any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, 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 or inside the jurisdiction of the state.

(75) Water quality standard. The designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses, as specified in Texas Administrative Code, Title 31, Chapter 307, as amended.

(76) Waters of the United States (US). 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 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, as amended; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

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

(78) Yard waste. Leaves, grass clippings, yard and garden debris, ad brush that results from landscaping maintenance and land-clearing operations.

II. GENERAL PROHIBITION

(a) No person shall introduce or cause to be introduced into the City drainage system any discharge that poses a reasonable threat to human health or the environment as defined herein or by other applicable law.

(b) Allowable non-stormwater discharges are:

- (1) Water line flushing (excluding discharges of hyper-chlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
- (2) Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
- (3) Discharges from potable water sources;
- (4) Diverted stream flows;
- (5) Rising groundwaters and springs;
- (6) Uncontaminated groundwater infiltration;
- (7) Uncontaminated pumped groundwater;
- (8) Foundation and footing drains;
- (9) Air conditioning condensation;
- (10) Water from crawl space pumps;

- (11) Individual residential vehicle washing;
- (12) Flows from wetlands and riparian habitats;
- (13) Dechlorinated swimming pool discharges;
- (14) Street wash water;
- (15) Discharges or flows from fire-fighting activities (fire-fighting activities do not include washing of trucks, runoff water from training activities, test water from fire suppression systems, and similar activities);
- (16) Other allowable non-stormwater discharges listed in 40 CFR 122.26(d)(2)(iv)(B)(1), as amended;
- (17) Non-stormwater discharges that are specifically listed as allowable in the TPDES Multi-Sector General Permit (MSGP) or the TPDES Construction General Permit (CGP);
- (18) A discharge from a temporary car wash sponsored by a group organization where only soap and water are used and where efforts are made to minimize pollutants in the discharge; and
- (19) Other similar occasional incidental non-stormwater discharges, unless the TCEQ develops permits or regulations addressing these discharges.

(c) There shall be no allowable discharge if the discharge or flow in question has been determined by the DPW to be a source of a pollutant or pollutants to the waters of the U.S. or the City drainage system, written notice of such determination has been provided to the discharger, and the discharge has occurred more than 14 calendar days beyond such notice. The correctness of the DPW's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

III. SPECIFIC PROHIBITIONS AND REQUIREMENTS

- (a) The specific prohibitions and requirements in this section are not necessarily inclusive of all the discharges prohibited by the general prohibition in Section II above.
- (b) No person shall intentionally dump, spill, leak, pump, pour, emit, empty discharge, leach, dispose, or introduce any of the following substances into the City's drainage system and all persons shall to the maximum extent practicable under prevailing circumstances, employ control measures to prevent the following substances from entering into the City's drainage system:
 - (1) Any motor oil, antifreeze, or any other motor vehicle fluid;
 - (2) Any garbage or rubbish;
 - (3) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any

business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity;

(4) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;

(5) Any 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;

(6) Any wastewater from floor, rug or carpet cleaning;

(7) Any wastewater from the wash-down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;

(8) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler;

(9) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro much material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;

(10) Any runoff or wash-down water from any animal pen, kennel, or foul or livestock containment area;

(11) Any filter backwash from a swimming pool, fountain or spa;

(12) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(13) Any discharge from water line disinfection by hyper-chlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;

(14) Any fire protection water containing oil or hazardous substances or materials that the fire code in this Code of Ordinances requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from fire-fighting by the fire department.);

(15) Any water from a water curtain in a spray room used for painting vehicles or equipment;

(16) Any contaminated runoff from a vehicle;

(17) Any substance or material in an amount that will damage, block, or clog the City's drainage system.

(c) No person shall intentionally or negligently introduce or cause to be introduced into the City's drainage system sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials in an amount that would damage, clog or otherwise divert the flow of the City's drainage system.

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

(e) No person shall cause or allow any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained grease, oil, and sand interceptor before discharge into the City's drainage system.

(f) Pesticides, herbicides and fertilizers. All persons shall, to the maximum extent practicable under prevailing circumstances, employ control measures to minimize pesticides, herbicides and fertilizers from entering the City's drainage system. This includes the following:

- (1) Apply products according to manufacture recommendations.
- (2) Apply products according to all state and federal laws.
- (3) Proper storage and disposal.

III. RELEASE AND REPORTING CLEANUP

(a) The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the City's drainage system or waters of the US, shall notify the City concerning the incident immediately:

- (1) An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR 302, as amended;
- (2) An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR 355, as amended; or,
- (3) 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 any adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline.

(b) The immediate notification required by subsection (a), if known, shall include 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 release;
- (3) The time and duration of the release;
- (4) An estimate of the quantity and concentration of the substance released;
- (5) The source of the release;
- (6) Any known or anticipated health risks associated with the release and where appropriate, advice regarding medical attention that may be necessary for exposed individuals
- (7) Any precautions that should be taken as a result of the release;
- (8) Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and
- (9) The names and telephone numbers of the person or persons to be contacted for further information.

(c) Within 14 calendar days following such release, the responsible person in charge of the facility, vehicle, or other source of the release shall, upon request by the DPW, submit a written report containing each of the items of information specified above in subsection (b), as well as the following additional information:

- (1) The ultimate duration, concentration, and quantity of the release;
- (2) All actions taken to respond to contain, and clean up the release substances, and all precautions taken to minimize the impacts;
- (3) Any known or anticipated acute or chronic health risks associated with the release;
- (4) Where appropriate, advice regarding medical attention necessary for exposed individuals;
- (5) The identity of any governmental/private sector representatives responding to the release; and
- (6) The measure taken or to be taken by the responsible person(s) to prevent similar future occurrences.

(d) The notifications required by subsections (b) and (c) above shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the City's drainage system, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this article or to state or federal law.

(e) Any person responsible for a release described in subsection (a) above shall reimburse the City for any cost incurred by the City in responding to the release.

IV. STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

(a) General requirements:

(1) All operators of construction sites shall use best management practices to control and reduce the discharge to the City's drainage system and to waters of the U.S. of sediment, silt, earth, soil, and other material associated with the clearing, grading, excavation, and other construction activities to the maximum extent practicable under the circumstances. Such best management practices may include, but not be limited to the following measure:

- a. Preservation of existing vegetation and stabilization measures will be per City of Parker approved construction plans and specifications;
- b. 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 extent feasible;
- c. Minimization of the tracking of sediments off-site by vehicles, the generation of dust, and the escape of other windblown waste from the site;
- d. Providing general good housekeeping measure 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 ad disposal of any such spills in compliance with state, federal and local requirements;
- e. Prevention of the discharge of building materials, including cement, lime, concrete, and mortar to the City's drainage system or waters of the U.S.;
- f. Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
- g. Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices in good and effective operating condition; and
- h. Post construction controls should be used per the City of Parker's approved construction plans and specifications and maintained in accordance with the City of Parker's SWMP.

(2) Qualified personnel (provided by the operator of the construction site) shall 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, on either of the schedules designated in the CGP (either every 14 calendar days and within 24-hours of a $\frac{1}{2}$ inch rain event, or at least once every seven days regardless of when it rains). All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and

the City. Based on the results of the inspection, best management practices shall be revised as appropriate, and as soon as is practicable. Based on the results of the inspection, a follow-up inspection will be conducted and one (1) day given for completion of corrective action(s).

(3) The City may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by subsection (a)(1) above, that will be implemented at the construction site. The City 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 management practices described in the plans or observed upon a site inspection by the DPW are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation, and other construction activities to the maximum extent practicable under the circumstances.

(4) Any owner with any control over construction activity on their property, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in subsection (a).

(5) 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 if such failure causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any state-issued discharge permit for discharges from the City.

(6) The City may require specific structural controls or non-structural controls be installed to protect water quality. Controls may include, but are not be limited to, silt fencing, rock check dams, gabions, soil stabilizers, street sweeping or additional inspections .

(b) Five-acre disturbances.

(1) All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of five or more acres of total land area, or that are part of a common plan of development or sale within which five or more acres of total land area are disturbed, or who are required to obtain an NPDES permit for stormwater discharges associated with construction activity, shall comply with the following requirements (in addition to those in subsection (a)):

- a. Any operator who intends to obtain coverage for stormwater discharges from a construction site under the NPDES general permit for stormwater discharges from construction sites ("the construction general permit or CGP") shall submit a signed copy of its Notice of Intent (NOI) to the DPW at least two days prior to the commencement of construction activities. If the construction activity is already underway upon the effective date of this article, the NOI shall be submitted within 30 days or upon request by the City. For stormwater discharges from construction sites where the operator changes, an NOI shall be submitted at least two days prior to when the new operator commences work at the site.

- b. Signage shall be posted in accordance with the TCEQ Construction General Permit.
- c. A stormwater pollution prevention plan (SWPPP) shall be prepared and implemented in accordance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this article and any other City ordinance.
- d. The SWPPP shall be completed prior to the submittal of the NOI to the DPW and, for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified, as appropriate, and as required by the construction general and this ordinance.
- e. A copy of any NOI that is required by subsection (b)(1)a, shall be submitted to the City in conjunction with any application for a building permit, grading permit, and any other City approval necessary to commence or continue construction at the site.
- f. The DPW may require any operator who is required by subsection (b)(1)b to prepare a SWPPP, to submit the SWPPP, and any modification thereto, to the DPW for review. Such submittal and review of the SWPPP may be required by the DPW prior to commencement of or during construction activities at the site.
- g. At the City's discretion it may make the determination to deny any approval of any permit, grading permit, or any approval necessary to commence or continue construction, or to assume occupancy if a site is contributing pollutants to the City's drainage system.
- h. The operator shall make the SWPPP and any modifications (as required and for the duration of the project) thereto available to the DPW upon request.
- i. The DPW may notify the operator at any time that they are not in compliance with their TPDES construction permit. Within seven days of such notification from the DWP (or as otherwise provided by the DPW), the operator shall make the required changes to the SWPPP and shall submit to the DPW a written certification that the requested changes have been made.
- j. Upon final stabilization of the construction site, the owner (or the duly authorized representative thereof) shall submit written certification to the DPW that the site has been finally stabilized. (See definition of final stabilization in this article). The City may withhold an occupancy or use permit for any premises construction on the site until such certification of final stabilization has been filed and the DPW has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

(c) Less than five acres of disturbance.

All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of less than five acres of total land area, or that are part

of a common plan of development or sale within which one to five acres of total land area are disturbed, or who are required to obtain an NPDES permit for stormwater discharges associated with construction activity, shall comply with 1(b)c through q above (in addition to those in subsection (a). However, instead of submitting a NOI, the CSN should be submitted in accordance with the Construction General Permit.

A copy of the Construction Site Notice (CSN) shall be displayed at the construction site at a place readily available for viewing by the general public, and local, state, and federal authorities.

V. COMPLIANCE MONITORING

(a) Right of entry, inspection, and sampling. City inspectors shall have the right to enter the premises of any person reasonably suspected by the City of discharging pollutants into the City or to waters of the U.S. to determine if the discharger is complying with all requirements of this article, and with any state or federal discharge permit, limitation or requirement. Dischargers shall allow the City inspectors ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Dischargers shall make available to the City inspector, upon request, any SWPPPs, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this article and with any state or federal discharge permit.

(1) Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City inspector will be permitted to enter without unreasonable delay for the purposes of performing his/her responsibilities.

(2) The City inspector shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the discharger's operations.

(3) When pollutants have been discharged the DPW may require any discharger to the City's drainage system or waters of the US to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges, and may specify the frequency and parameters of any such required monitoring.

(4) The DPW may require the discharger to install monitoring equipment as necessary at the discharger's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the City inspector and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

(6) Unreasonable delays in allowing the City inspector access to the discharger's premises shall be a violation of this article.

(b) **Search warrants.** If the City inspector has been refused access to any part of the premises from which stormwater is discharged and he/she is able to demonstrate probable cause to believe that there may be a violation of this article or any state or federal discharge permit, limitation or requirement, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City inspector may seek issuance of a search warrant from any court of competent jurisdiction.

VI. ADMINISTRATIVE ENFORCEMENT REMEDIES

(a) **Warning notice.** When the DPW finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the DPW may serve upon that person either a **verbal warning notice** or a copy of the inspection report, with expected corrective actions. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this subsection shall limit the authority of the DPW to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(b) **Notification of violation.** When the DPW finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the Code Enforcement Officer may serve upon that person a written notice of violation. Within five (5) days of the receipt of this notice, the alleged violator shall submit to the Code Enforcement Officer an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof along with a plan of specific actions for compliance or shall complete specific actions for compliance. The Code Enforcement Officer shall have discretion to determine the amount of time needed for completion of specific action for compliance if the latter option is chosen. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Code Enforcement Officer within five (5) days of receipt of the notice. The Code Enforcement Officer shall make a determination within one (1) day on the validity of the claim and shall notify the alleged violator. Upon a denial of the claim, the alleged violator shall have five (5) days to complete specific action for compliance. Submission of an explanation and/or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Code Enforcement Officer to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(c) **Stop Work Order.** Whenever the Code Enforcement Officer finds that any operator of a construction site has violated or continues to violate any provision of this article the Code Enforcement Officer may issue a "Stop Work Order". This order will be posted at the construction site with a copy delivered to the operator. All work at the site should cease until all violations are immediately corrected, and documentation is presented to the Code Enforcement Officer or his representative stating the violation will not re-occur or changes to the SWPPP have been made. Upon receipt of the documentation, a Notice to Proceed will be issued by the Code Enforcement Officer or his representative. Issuance of a

“Stop Work” order shall not be a deterrent against, or a prerequisite for, taking any other action against the violator.

(d) Consent order. The Code Enforcement Officer may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (e), (f), and (g) of this section and shall be judicially enforceable.

(e) Show cause hearing. The Code Enforcement Officer may order any person who has violated, or continues to violate, any provision of this article, or any order issued hereunder, to appear before the Code Enforcement Officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures specified in this article. A show cause hearing shall not be a deterrent against, or prerequisite for, taking any other action against the alleged violator.

(f) Compliance orders. When the Code Enforcement Officer finds that any person has violated or continues to violate, any provision of this article, or any order issued hereunder, the Code Enforcement Officer may issue an order to the violator directing that the violator come into compliance with a specified time limit. 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 City’s drainage system and waters of the U.S. 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 deterrent against, or a prerequisite for, taking any other action against the violator.

(g) Remediation, abatement and restoration orders. When the Code Enforcement Officer 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 City’s drainage system, the waters of the U.S., or any other aspect of the environment, the Code Enforcement Officer may issue an order to the violator directing him/her to undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the City, the waters of the U.S., or any other aspect of the environment, and/or to restore any part of the City, the waters of the U.S., or any other aspect of the environment that has been harmed. Such remedial, abatement, 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 City property or natural resources damaged by the violation. The order may direct that the remediation, abatement, and/or restoration be

accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this subsection does not relieve the violator of liability for any violation, including any continuing violation. Issuance of an order under this subsection shall not be a deterrent against, or a prerequisite for, taking any other action against any responsible party.

(h) Emergency cease and desist orders. When the Code Enforcement Officer finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) have caused or contributed to an actual or threatened discharge to the City or waters of the U.S. which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Code Enforcement Officer may issue an order to the violator directing it immediately to cease and desist all such violations and directing violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Code Enforcement Officer may take such steps as deemed necessary to prevent or minimize harm to the City's drainage system or waters of the U.S., and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply sewer connection, or other municipals utility services. The Code Enforcement Officer may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Code Enforcement Officer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measure taken to prevent any future occurrence, to the Code Enforcement Officer within two days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a deterrent against, or a prerequisite for, taking any other action against the violator.

(i) "Red tags". Whenever the Code Enforcement Officer finds that any operator of a construction site has violated or continues to violate, any provision of this article, or any order issued thereunder, the Code Enforcement Officer may order that a "red tag" be issued to the operator, posted at the construction site, and distributed to all City departments and divisions whose decisions affect any activity at the site. Unless express written exception is made by the Code Enforcement Officer, the "red tag" shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the City associated with a building permit, grading permit, subdivision plat approval, site development plan approval, or any other City approval necessary to commence or continue construction or to issue occupancy at the site. Issuance of a "red tag" order shall not be a deterrent against, or a prerequisite for, taking any other action against the violator.

VII. RIGHT TO RECONSIDERTION, HEARING AND APPEAL

- (a) Reconsideration and hearing.

(1) Any person subject to a compliance order under Section VI(f), a remediation, abatement, or restoration order under Section VI (g), an emergency cease and desist order under VI(h), or a red tag order under Section VI(i) of this Section may petition the DPW to reconsider the basis for his/her order within **30 days** of the affected person's notice of issuance of such an order.

(2) Failure to submit a timely written petition for reconsideration shall be deemed to be a waiver of any further right to administrative reconsideration or review of the order.

(3) In its petition, the petitioning party must indicate the provisions of the order objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that the petitioner would accept, and whether the petitioning party requests a hearing on its petition.

(4) The effect of any compliance order under Section VI(f), remediation, abatement, or restoration order under Section VI(g), and any red tag order under Section VI(i) shall be stayed pending the DPW's reconsideration of the petition, any hearing thereon, unless the DPW expressly makes a written determination to the contrary. The effectiveness of any emergency cease and desist order under Section VI(h) shall not be stayed pending the DPW's reconsideration, or any hearing thereon, unless the DPW expressly and in writing stays his/her emergency order.

(5) Within ten (10) days of the submittal of a petition for reconsideration, the DPW shall either: (1) grant the petition and withdraw or modify the order accordingly; (2) deny the petition, without hearing if no material issue of fact is raised; or (3) if a hearing has been requested and a material issue of fact has been raised, set a hearing on the petition.

(6) Written notice of any hearing set by the DPW pursuant to subsection (a)(5) above, shall be served on the petitioning party personal or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.

(7) The DPW may himself/herself conduct the hearing and take evidence, or he/she may designate any employee of the city or any specially-designated attorney or engineer to:

(a) Issue in the name of the City notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;

(b) Take evidence;

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the DPW for action thereon.

At any hearing held pursuant to this subsection, testimony taken shall be under oath and recorded. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross-examination as may be required for a full and true

disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

(8) After the DPW has reviewed the evidence, he/she shall either: (1) grant the petition; (2) deny the petition; or (3) grant the petition in part and deny it in part. The DPW may modify his/her order as is appropriate based upon the evidence and arguments presented at the hearing and his/her action on the petition. Further orders and directives as are necessary and appropriate may be issued.

(b) Appeal.

(1) Any person whose petition for reconsideration by the DPW has not been granted in its entirety and who remains adversely affected by the DPW's order, or who is subject to an order of the DWP issued following a show cause hearing under Section VI(e), may appeal the action of the DWP to the City Council by filing a written appeal with the City Council within ten (10) days of the person's notice of the DPW adverse action on the petition for reconsideration, or within (10) days of the person's notice of the issuance of the order following the show cause hearing, as the case may be.

(2) Failure to submit a timely written appeal to the City Council shall be deemed to be a waiver of further administrative review.

(3) In its written appeal to the City Council, the appealing party shall indicate the particular provisions of the order objected to, the particular determinations of the DWP that are contested, the reasons that the DPW's order and/or determinations that are contested, and any alternative order that the appealing party would accept.

(4) The effect of the DPW's order, as issued or modified, shall not be stayed pending the appeal to the City Council, unless the City Council expressly so states.

(5) Within 30 days of the submittal of a written appeal to the City Council, the City Council shall hear and consider the appeal in open meeting. The appellant shall be notified at least three (3) days in advance of the date and time of the City Council meeting at which the appeal will be heard and considered.

(6) The appellant shall have the right to public appearance before the City Council to present oral and written statements in support of his/her appeal. If the City Council wishes to consider testimony of witnesses or other evidence beyond that in the record of any hearing before the DPW the City Council may remand the matter to the DPW for the taking of additional testimony or other evidence.

(7) Upon consideration of any written and oral statements made to the City Council, as well as the record made before the DPW, the City Council shall act on the appeal by affirming, vacating, or modifying the order of the DPW, and/or by remanding the matter to the DPW for further action

(8) Following final action by the City Council on the appeal, any adversely affected party may challenge such action by the City Council in an appropriate court of competent jurisdiction.

VIII. JUDICIAL ENFORCEMENT REMEDIES

(a) Civil remedies.

(1) Whenever it appears that a person has violated, or continues to violate, any provision of this article that related to:

- a. The preservation of public safety, relating to the materials or methods used in construction of any structure or improvement of real property;
- b. The preservation of public health or to the fire safety of a building or other structure or improvement;
- c. The establishment of criteria for land subdivision or construction of buildings including street design;
- d. Dangerous, damaged, or deteriorated structures or improvements;
- e. Conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or
- f. Point source effluent limitations or the discharge of a pollutant, other than from a nonpoint source, in the City's drainage system.

The City may invoke other City Codes, as amended, and petition the State District Court or the County Court of Law of Collin, through the City Attorney, for either the injunctive relief specified in subsection (2)(a) below, or the civil penalties specified in subsection (2)(3) below, or both the specified injunctive relief and civil penalties.

(2) Pursuant to City Code, as amended, the City may obtain against the owner or the operator of a facility a temporary or permanent injunction, as appropriate, that:

- a. Prohibits any conduct that violates any provision of this article that relates to any matter specified in subsections (a)(1)a-f above; or
- b. Compels the specific performance of any action that is necessary for compliance with any provision of this article that relates to any matter specified in subsections (a)(1)a-f above.

(3) Pursuant to City Code, as amended, the City may recover a civil penalty of not more than **\$1000.00** per day for each violation of any provision of this article that relates to any matter specified in subsection VII(a)(1)a-f above, if the City proves that:

- a. The defendant was actually notified of the provisions of the ordinance; and

b. After the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

(b) Criminal penalties.

(1) Any person, who has violated any provision of this article, or any order issued hereunder, shall be strictly liable for such violation regardless of the presence or absence of a culpable mental state, except as expressly provided herein, and shall, upon conviction, be subject to a fine of not more than **\$1000.00** per violation per day, or any greater fine authorized by state statute.

(2) Any person who has knowingly made any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, or any order issued hereunder, or who has falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this article shall, upon conviction, be subject to a fine of not more than **\$500.00** per violation, per day, or any greater fine authorized by state statute.

(3) In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence, or other state of mind of the violator, and any other factor as justice requires.

(c) Civil suit under the Texas Water Code. Whenever it appears that a violation or threat of violation of any provision of this article, as amended, or any rule, permit, or order of the Texas Water Commission, has occurred or is occurring within the jurisdiction of the City of Parker, the City may have a suit instituted in a state district court through its city attorney for the injunctive relief or civil penalties or both against the person who committed or is committing or threatening to commit the violation.

(d) Remedies nonexclusive. The remedies provided for this article are not exclusive of any other remedies that the City may have under state or federal law or other city ordinances. The City may take any, all, or any combination of these actions against a violator. The City is empowered to take more than one enforcement action against any violation. These actions may be taken concurrently.

IX. POST CONSTRUCTION STORMWATER CONTROLS

(a) Option for new construction/post construction.

In lieu of (b)-(f) below, the owner of any stormwater feature may pay an amount determined by the department heads to be deposited in a fund maintained by the City for future construction of a stormwater feature of the City's choosing and in a location of the City's choosing.

(b) Ownership

The owner of any stormwater feature shall have full responsibility for maintenance activities so that the stormwater feature remains in good working order. The owner could include a Homeowners' Association or it could include the City; whoever owns the property once all construction operators have relinquished control of the property (see CGP for Notice of Termination).

(1) The maintenance activities shall be performed according to the below guidelines with the first applicable item to serve as the prevailing guideline.

(a) Documents submitted to and reviewed by the City and filed at the County with the property that establish the maintenance activities for the stormwater feature, if available.

(b) The manufacturer's recommended maintenance activities if the stormwater feature was manufactured.

(c) Generally accepted maintenance activities prescribed specifically for the area, if available.

(d) Generally accepted maintenance activities.

(2) Maintenance activities resulting in the following are prohibited:

(a) Increased erosion potential;

(b) Decreased bank stability;

(c) Increased flooding potential;

(d) Increased pollutants;

(e) Unnecessary disturbance of vegetation and riparian areas; or

(f) Increased proliferation of invasive species.

(c). Notice of Violation for New Development or Re-development

(1) In the event any owner, tenant, agent or person responsible for or claiming or having supervision or control over real property governed by this article fails to comply with the provisions of this article, the City, by and through its Code Enforcement Officer or designee shall give a Notice of Violation to such owner. Such Notice shall be given in any of the following ways:

(a) Personally to the owner in writing;

(b) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or

(c) If personal service cannot be obtained:

1. By publication in the City's official newspaper at least once;
2. By posting notice on or near the front door of each building on the property to which the violation related; or
3. By posting a notice to a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(2) If the City mails a notice to the owner in accordance with subsection (1) above, the United States Postal Service returns the notice as "refused," "unclaimed," or if the address required by subsection (1) was used and the notice is returned as "not deliverable as addressed" (or an equivalent marking), the validity of the notice is not affected, and the notice is considered as delivered.

(3) In a notice provided under this section, the City may inform the owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature on or before the anniversary of the date of the notice, the City, without further notice, may correct the violation at the owner's expense and assess the expense against the property or issue citations. If a violation covered by a notice under this subsection occurs within one (1) year, and the City has not been informed in writing by the owner of an ownership change, then the City, without notice, may take any action permitted in (d) below and assess its expenses as provided in (e) below.

(d). Citations, Work or Improvements by the City; Charges against Owner

If the owner fails or refuses to comply with the demand for compliance in the notice within ten (10) days of such notice, the City may:

(1) Issue citations as provided; and

(2) Do the work or make the improvement(s) required, pay for the work done or improvement(s) made and charge the expenses to the owner of the property as provided herein. The property owner will have twenty (20) days to reimburse the City from the completion date of such work to abate the violation(s) at the property.

(e). Assessment of Expenses; Lien

(1) In the event the owner fails or refuses to pay such expenses charged to the owner, within twenty (20) days after the abatement work is completed, a lien may be obtained. The lien and any other expenses incurred by the City may be filed against the property.

(2) To obtain a lien, the City must file a statement of the expenses incurred to correct the condition of the real property with the County Clerk of the County in which the property is located. The statement must also state the name of the owner, if known, and the legal description of the property. The lien attaches upon filing of the statement with the County Clerk.

(3) The City's lien shall be a prior lien on such property, second only to tax liens and liens for street improvements. The lien amount shall include simple interest, which shall accrue at the rate of ten (10) percent annually on the date the expenses were incurred by the City. The City may bring suit for foreclosure to recover the expenditures and the interest due.

(f). Right of Entry; Inspection

The owner shall grant the city a right of entry in the event that the DPW or the Code Enforcement Officer has reason to believe it has become necessary to inspect, monitor, maintain, repair, reconstruct, or discontinue the use of stormwater features and/or structure BMPs; however, in no case shall the right of entry, of itself, confer an obligation on the City to assume responsibility for the stormwater feature and/or structural BMPs.

- (1) Where an owner has security measures in force which require proper identification and clearance before entry into its premises, the owner shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City will be permitted to enter without unreasonable delay for the purposes of performing his/her responsibilities.
- (2) The City shall have the right to set up on the owner's property, or require installation of, such devices as are necessary to conduct sampling and or metering of the owner's operations.
- (3) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the owner at the written or verbal request of the City and shall not be replaced. The cost of clearing such access shall be borne by the owner.
- (4) Unreasonable delays in allowing the City access to the owner's premises shall be a violation of this section.

SECTION 2. REPEALER CLAUSE: That all provisions of the Ordinances of the City of Parker in conflict with the provision of this Ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City of Parker not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. SEVERABILITY CLAUSE: It is the intent of the City Council that each sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be deemed severable and, should any such sentence, paragraph, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provision of the Ordinance left standing.

SECTION 4. EFFECTIVE DATE: This Ordinance shall take effect immediately from its passage and publication of the caption as the law in such cases provides.

SECTION 5. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

ADOPTED on this the 2nd day of June, 2020.

CITY OF PARKER, TEXAS



BY: Lee Pettle
LEE PETTLE, MAYOR

ATTEST:

BY: Patti Scott Grey

PATTI SCOTT GREY, CITY SECRETARY

APPROVED AS TO FORM

AND CONTENT:

BY: B.S.S.

BRANDON S. SHELBY,
CITY ATTORNEY