

ARTICLE X. - MUNICIPAL STORMWATER DRAINAGE REGULATIONS AND ACTS ADVERSELY AFFECTING WATER QUALITY

Sec. 41-58. - Purposes.

The purposes and objectives of this article are as follows:

- (a) To maintain and improve the quality of surface water and groundwater within the city.
- (b) To prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the city.
- (c) 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 waters of the city.
- (d) To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
- (e) To facilitate compliance with state and federal standards and permits by owners and operators of industrial and construction sites within the city.
- (f) To enable the city to comply with all federal and state laws and regulations applicable to stormwater discharges.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-59. - Administration.

Except as otherwise provided, the director shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to other city personnel.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-60. - Abbreviations.

The following abbreviations when used in this article mean:

BMP — Best Management Practices

BTEX — Benzene, Toluene, Ethylbenzene, and Xylene

CFR — Code of Federal Regulations

EPA — U.S. Environmental Protection Agency

HHW — Hazardous Household Waste

mg/l — Milligrams per liter

MS4 — Municipal Separate Storm Sewer System

NOI — Notice of Intent

NOT — Notice of Termination

ppb — Parts per billion

PST — Petroleum Storage Tank

RLA — Registered Landscape Architect

RPE — Registered Professional Engineer

SWPPP— Stormwater Pollution Prevention Plan

TPDES— Texas Pollutant Discharge Elimination System

TPH — Total Petroleum Hydrocarbons

USC — United States Code

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-61. - General prohibition.

- (a) No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of stormwater.
- (b) It is an affirmative defense to subsection (a) of this section that the discharge was composed entirely of one (1) or more of the following categories of discharges:
 - (1) A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
 - (2) A discharge or flow resulting from fire fighting by the fire department;
 - (3) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Uniform Fire Code as adopted and amended by this Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
 - (4) Agricultural stormwater runoff;
 - (5) A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless the discharge contains no harmful quantity of any chemical used in line disinfection;
 - (6) A discharge or flow from lawn watering, or landscape irrigation;
 - (7) A discharge or flow from a diverted stream flow or natural spring;
 - (8) A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
 - (9) Uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
 - (10) Uncontaminated discharge or flow from a foundation drain, crawl space footing drain, or sump;
 - (11) A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
 - (12) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
 - (13) A discharge or flow from individual residential car washing;
 - (14) A discharge or flow from a riparian habitat or wetland;

- (15) A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
 - (16) Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber, filter, or any other source of pollutant;
 - (17) Swimming pool water that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.
 - (18) A discharge of flow from a temporary car wash sponsored by a civic group, school, religious, or nonprofit organization.
- (c) No affirmative defense is available under subsection (b) of this section if the discharge or flow in question has been determined by the director to be a source of a pollutant or, pollutants to the waters of the United States or to the MS4, written notice of that determination has been provided to the discharger, and the discharge has occurred more than fifteen (15) days beyond the notice. The correctness of the director's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62. - Specific prohibitions and requirements.

- (a) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by this chapter.
- (b) No person shall introduce or cause to be introduced into the MS4 any discharge that 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 its MS4.
- (c) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:
 - (1) Any used motor oil, antifreeze, or any other motor vehicle fluid;
 - (2) Any industrial waste;
 - (3) Any hazardous waste, including hazardous household waste;
 - (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 - (5) Any garbage, rubbish, or yard waste;
 - (6) 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 that operates more than two (2) such vehicles;
 - (7) Any wastewater from washing, cleaning, de-icing, or other maintenance of aircraft;
 - (8) 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;
 - (9) Any wastewater from commercial floor, rug, or carpet cleaning;
 - (10) Any wastewater from the washdown 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 washdown 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 the released material have been previously removed;

- (11) Any effluent from a cooling tower condenser, compressor, emissions scrubber, emissions filter or the blowdown from a boiler;
- (12) Any commercial runoff or washdown water from any animal pen, kennel or fowl or livestock containment area;
- (13) Any filter backwash from a swimming pool or fountain;
- (14) 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;
- (15) Any discharge from water line disinfection by superchlorination or other means if the total residual chlorine it contains any harmful quantity of chlorine or any other chemical used in line disinfection;
- (16) Any fire protection water containing oil or hazardous substances or materials that the Fire Code in this Code 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.);
- (17) Any water from a water curtain in a spray room used for painting vehicles or equipment;
- (18) Any contaminated runoff from a vehicle wrecking yard;
- (19) Any substance or material that will damage, block, or clog the MS4;
- (20) Any release from a petroleum storage tank (PST); any leachate or runoff from soil contaminated by a leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release unless the discharge:
 - a. Is in compliance with all state and federal standards and requirements; and
 - b. Does not contain a harmful quantity of any pollutant;
- (d) No person shall introduce or cause be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil or other material associated with clearing, grading, excavation, or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.
- (e) No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.
- (f) No person shall cause or allow any pavement washwater from a service station to be discharged into the MS4 unless such washwater has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- (g) Regulation of pesticides, herbicides, and fertilizers.
 - (1) Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant to it; and any other state or federal requirement.
 - (2) Any license, permit, registration certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer transportation, storage, or disposal of a pesticide herbicide or fertilizer must be presented to the director or his/her delegate and any city law enforcement officer for examination upon request.
 - (3) No person shall 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.
 - (4) No person shall use or cause to be used any pesticide, herbicide, or fertilizer in any 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 MS4 or waters of the United States.

- (5) No person shall 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 MS4 or waters of the United States.
- (h) Used-oil regulation.
 - (1) No person shall:
 - a. Discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course;
 - b. Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill;
 - c. Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.
 - (2) All businesses that change motor oil for the public, municipal waste landfills are encouraged to serve as public used oil collection centers as provided by state statute in Section 371.024 of the Texas Health & Safety Code.
- (i) Erosion control. It is unlawful for any person having control of real property in the city to suffer or permit soil, rock, mud, or debris to wash, slide, or otherwise be moved from the real property onto any adjacent property, street, alley, utility facility, right-of-way, or easement through erosion. Any person in control of real property shall:
 - (1) Prevent soil, mud, rock, or debris from being deposited on or transported through erosion to any adjacent property, street, alley, utility facility, right-of-way, or easement;
 - (2) Inspect the property and acquaint himself or herself with the conditions existing; and
 - (3) Remedy any condition that might allow soil, mud, rock, or debris to wash, slide, or otherwise be transported to any adjacent property, street, alley, utility facility, right-of-way, or easement through erosion.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62.1. - Permit required.

No person shall perform or permit any other person to perform earthwork within the city without first having secured a permit for it. It is an affirmative defense to the permit requirement of this section that the earthwork is proposed on a lot smaller than one acre which is developed with an existing single-family residence or that that the earthwork is being performed in conformance with all applicable grading, erosion control and stormwater discharge regulations, pursuant to a previously obtained and currently active building permit. The lack of a requirement for a earthwork permit under this section shall not act as an exemption from any regulation, including grading, erosion control or stormwater discharge regulations, for activity that would otherwise be subject to such regulation.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62.2. - Permit application and process.

- (a) An applicant for an earthworks permit shall submit to the director:
 - (1) If not the property owner, a statement from the property owner giving permission for the applicant to perform earthwork and erosion control on the property and a statement from the property owner that he or she understands and accepts the responsibilities of any person in control of real property in this chapter;

- (2) A copy of an approved EPA stormwater permit for any work that may disturb five (5) or more acres of land accompanied by a stormwater prevention plan prepared by a registered engineer;
- (3) Two (2) sets of plans and specifications drawn to scale; of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that the work will comply with all applicable law; giving the location of the proposed work, the name and address of the property owner, and the name and address of the person by whom they were prepared; and including:
 - a. Proposed construction and material requirements for the proposed earthwork and erosion control;
 - b. General vicinity of the proposed site;
 - c. Property limits and accurate contours of existing ground and details of terrain and area drainage;
 - d. Limiting dimensions, elevations, or finish contours to be achieved by the proposed grading, drainage channels, and related construction;
 - e. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other protective devices to be constructed with or as part of the proposed work;
 - f. A map showing the drainage area and the estimated runoff of the area served by any existing or proposed drains;
 - g. The location of buildings and structures on the property; and
 - h. The location of any tree on the property protected by the City of Irving Comprehensive Zoning Ordinance section 52-35a, Landscaping and Tree Preservation.
- (4) A completed application on a form supplied by the department.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62.3. - Permit fee.

Each applicant for an earthworks permit shall pay a nonrefundable thirty-five dollar (\$35.00) fee for each permit for which he or she applies.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62.4. - Notification of completion.

Any person who has an earthworks permit shall notify the department when the grading operation is ready for final inspection. The director will not approve the work unless all work, including installation of all drainage facilities and their protective devices and all erosion control measures are completed in compliance with the final approved grading plan and the permittee has submitted any required reports.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62.5. - Topsoil requirements.

- (a) No person shall place fill on a site without:
 - (1) Leveling it and having a final cover of topsoil of a minimum depth of six (6) inches that will support vigorous plant growth immediately following the completion of filling operations;
 - (2) Leveling and covering it intermediately at intervals not to exceed thirty (30) days for filling operations that exceed thirty (30) days in duration.

- (b) It is an affirmative defense to this section that the director has approved substitution of an alternative cover that is resistant to erosion.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62.6. - Erosion control required.

No person shall place fill on a site without preparing and maintaining the faces of cut and fill slopes to control against erosion with effective planting, check dams, cribbing, riprap, or other devices and methods as necessary as soon as is practicable and before calling for an inspection for final approval. It is an affirmative defense to this section that the cut slopes are not subject to erosion due to the erosion-resistant character of the materials.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-62.7. - Responsibility for cleanup.

- (a) The property owner shall ensure that all cleanup operations incidental to the earthwork on the property including but not limited to leveling, establishment of ground cover, erosion control, and removal of all trash and other materials not suitable for fill including those deposited on streets, alleys, utility facilities, rights-of-way, and easements are completed and maintained.
- (b) If the property owner violates this section in any way, after ten (10) days after the city gives the property owner written notice that he or she is in violation of this section the city may remove all soil, rock, debris, and other materials deposited on streets, alleys, utility facilities, rights-of-way, and easements and bill the owner for the work. If the owner fails to pay the bill within thirty (30) days after the city sends it, the city may place a lien on the owner's property.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-63. - Release reporting and 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 MS4 or waters of the United States, shall immediately telephone and notify either fire or police concerning the incident:
 - (1) An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
 - (2) An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
 - (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 an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
 - (4) Any harmful quantity of any pollutant.
- (b) The immediate notification required by subsection (a) 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 including any known name of the waters involved or threatened and any other environmental media affected;
 - (3) The time and duration (thus far) of the release;
 - (4) An estimate of the quantity and concentration (if known) 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 fifteen (15) days following such release, the responsible person in charge of the facility, vehicle or other source of the release shall, unless waived by both the director and the fire chief, 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 released 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 measures 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, 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 any release as described in subsection (a) above shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
- (f) 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.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-64. - Stormwater discharges—From construction activities.

General requirements.

- (1) All operators of construction sites shall use best management practices to control and reduce the discharge, to the MS4 and to waters of the United States, of sediment, silt, earth, soil, and other material associated with the clearing, grading, excavation, and other construction activities to the maximum extent practicable. Such best management practices may include, but not be limited to, the following measures:

- a. Ensuring that existing vegetation is preserved where feasible and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures;
 - 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. Prevention of the discharge of building materials, including cement, lime, concrete, and mortar, to the MS4 or waters of the United States;
 - e. 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 assure proper cleanup and disposal of any such spills in compliance with state, federal, and local requirements;
 - 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. Installation of structural measures during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include, but are not limited to, the following: stormwater detention structures (including wet ponds); stormwater retention structures; flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on site; and sequential systems which combine several practices. Operators of construction sites are only responsible for the installation and maintenance of stormwater management measures prior to final stabilization of the site, and are not responsible for maintenance after stormwater discharges associated with construction activity have terminated.
- (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, at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that is 0.5 inches or greater. Construction site operators shall observe all erosion and sediment control measures and other identified best management practices be in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, best management practices shall be revised as appropriate, and as soon as is practicable.
- (3) The director 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 section 4168(a)(1) above that will be implemented at the construction site. The city may deny approval of any building permit, grading permit, subdivision plat, site development plan, 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 director 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.

- (4) Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in this section.
- (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 the 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 its MS4.
- (6) Five-acre disturbances. All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of five (5) or more acres of total land area, or that are part of a common plan of development or sale within which five (5) 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, or that the director determines to be harmful quantities, shall comply with the following requirements:
- (7) 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") shall submit a signed copy of its notice of intent (NOI) to the director at least two (2) 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 thirty (30) days. For stormwater discharges from construction sites where the operator changes, an NOI shall be submitted at least two (2) days prior to when the operator commences work at the site.
- (8) A stormwater pollution prevention plan (SWPPP) shall be prepared and implemented in compliance 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.
- (9) The SWPPP shall be prepared, signed and sealed by a registered professional engineer.
- (10) The SWPPP shall be completed prior to the submittal of the NOI to the director 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 permit and this article.
- (11) The applicant shall submitted a copy of any required NOI to the city in conjunction with any application for a building permit, grading permit, site development plan approval, and any other city approval necessary to commence or continue construction at the site.
- (12) The director may require any operator who is required to prepare a SWPPP to submit the SWPPP, and any modifications to it, to the director for review. Such submittal and review of the SWPPP may be required by the director prior to commencement of or during construction activities at the site.
- (13) Upon the director review of the SWPPP and any site inspection that he/she may conduct, the city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the SWPPP does not comply with the requirements of the construction general permit, any individual or group NPDES permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this article.
- (14) Any significant modification to the SWPPP shall be prepared, signed, and sealed by a registered professional engineer as required for the original SWPPP.
- (15) All contractors and subcontractors identified in an SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP:

"I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges

associated with industrial activity from the construction site identified as part of this certification, with the Stormwater Article X, Chapter 41 of the Code of Civil and Criminal Ordinances of the City of Irving, and with those provisions of the Stormwater Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."

The certification must include the name and title of the person providing the signature; the name, address, and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

- (16) The SWPPP, with the registered professional engineers signature and seal affixed, and the certifications of contractors and subcontractors, and with any modifications attached, shall be retained at the construction site from the date of commencement of construction through the date of final stabilization.
- (17) The operator shall make the SWPPP and any modification to it available to the director upon request.
- (18) The director may notify the operator at any time that the SWPPP does not meet the requirements of the construction general permit, any applicable individual or group NPDES permit issued for stormwater discharges from the construction site, or any additional requirement imposed by or under this article. Such notification shall identify those provisions of the permit or this article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) days of notification from the director (or as otherwise provided by the director), the operator shall make the required changes to the SWPPP and shall submit to the director a written certification that the requested changes have been made.
- (19) The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity. In addition the operator shall amend the SWPPP to identify any new contractor and/or subcontractor that will implement a measure in the SWPPP.
- (20) Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that drops precipitation 0.5 inches or greater at the site. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
- (21) Based on the results of the inspections required by section 41-68(b)(14), the site description and/or the pollution prevention measures identified in the SWPPP shall be revised as appropriate, but in no case later than seven (7) calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven (7) calendar days following the inspection.
- (22) A report summarizing the scope of any inspection required by section 41-68(b)(14), and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in compliance with this article shall be made and retained as part of the SWPPP for at least three (3) years from the

date that the site is finally stabilized. The report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the facility's NPDES permit, and this article. The person responsible for, making the report shall certify and sign it.

- (23) The operator shall retain copies of any SWPPP and all reports required by this article or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three (3) years from the date that the site is finally stabilized.
- (24) Where a site has been finally stabilized and all stormwater discharges from construction activities that are authorized by this article and by the NPDES permit for those construction activities are eliminated, or where the operator of all stormwater discharges at a facility changes, the operator of the construction site shall submit to the director a notice of termination (NOT) that includes the information required for notices of termination by Part VIII of the construction general permit.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-65. - Same—Associated with industrial activity.

- (a) All operators of (1) municipal landfills; (2) hazardous waste treatment, disposal and recovery facilities; (3) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023; and (4) industrial facilities that the director determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity, shall comply with the following requirements:
 - (1) Any operator who intends to obtain coverage for stormwater discharge associated with industrial activity under the NPDES general permit for stormwater discharges associated with industrial activity ("the industrial general permit") shall submit a signed copy of its notice of intent (NOI) to the director at least two (2) days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of this article, the NOI shall be submitted within thirty (30) days. Where the operator of a facility with a stormwater discharge associated with industrial activity which is covered by the industrial general permit changes, the new operator of the facility shall submit an NOI at least two (2) days prior to the change.
 - (2) A stormwater pollution prevention plan (SWPPP) shall be prepared and implemented in compliance with the requirements of the industrial general permit or any individual or group NPDES permit issued for stormwater discharges from the industrial facility, and with any additional requirement imposed by or under this article and any other city ordinance.
 - (3) A registered professional engineer shall prepare, sign, and seal the SWPPP.
 - (4) The operator shall complete the SWPPP prior to the submittal of the NOI to the director and, for a new industrial operation, prior to the commencement of the industrial activity at the facility. The operator shall update and modify the SWPPP as appropriate and as required by the industrial general permit and this article.
 - (5) The operator shall submit a copy of any NOI that is required by this article to the city in conjunction with any application for a permit or any other city approval necessary to commence or continue operation of the industrial facility.
 - (6) The director may require any operator who is required to prepare a SWPPP to submit the SWPPP, and any modifications to it, to the director for review. The director may require submittal and review of the SWPPP prior to commencement of or during industrial activity at the facility.
 - (7) Upon the director review of the SWPPP and any site inspection that he/she may conduct, the city may deny approval of any application for a permit or any other city approval necessary to commence or continue operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the industrial general permit, any individual or group NPDES permit

issued for stormwater discharges from the industrial facility, or any additional requirement imposed by or under this article.

- (8) A registered professional engineer shall prepare, sign and seal any significant modification to the SWPPP.
- (9) The operator shall retain the SWPPP, with the registered professional engineer's signature and seal affixed, and with any modifications attached, at the industrial facility from the date of commencement of operations until all stormwater discharges associated with industrial activity at the facility are eliminated and he or she has submitted the required notice of termination (NOT).
- (10) The operator shall make the SWPPP and any modification to it available to the director upon request.
- (11) The director may notify the operator at any time that the SWPPP does not meet the requirements of the industrial general permit, any applicable individual or group NPDES permit issued for stormwater discharges from the industrial facility, or any additional requirement imposed by or under this article. The notification shall identify those provisions of the permit or article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet the requirements. Within thirty (30) days of notification from the director (or as otherwise provided by the director), the operator shall make the required changes to the SWPPP and shall submit to the director a written certification that the requested changes have been made.
- (12) If the industrial facility is required by Part VI.B.2 of the industrial general permit to conduct semi-annual monitoring, the operator shall submit a signed copy of each semi-annual monitoring report prepared in compliance with Part VI.D. to the director.
- (13) If the industrial facility is required by Part VI.B.3 of the industrial general permit to conduct annual monitoring, the operator shall retained records of the monitoring results at the facility and make them available to the director upon request. The operator shall prepare a written report of the annual monitoring and submit it to the director if expressly required to do so by the director.
- (14) By written notice, the director may require any industrial facility identified in compliance with this section to implement a monitoring program that includes the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 C.F.R. 122.21(g)(7)(iii) and (iv). The director may require written reports of any monitoring to be submitted to him/her.
- (15) By written notice, the director may require any industrial facility identified in this section to conduct semi-annual or annual monitoring of stormwater discharges, or the director may specify an alternative monitoring frequency and/or specify additional parameters to be analyzed. The director may require written reports of any such additional monitoring to be submitted to him/her.
- (16) The operator shall retain the SWPPP until at least one (1) year after stormwater discharges associated with industrial activity at the facility are eliminated, or after that operator is no longer operating the facility, and after submitting a notice of termination (NOT) in compliance with this article. The operator shall retain all records of all monitoring information, copies of all required reports, and records of all data used to complete the NOI, until at least one (1) year after all stormwater discharges associated with industrial activity at the facility are eliminated, or after the operator ceases to operate that facility, and after the operator has submitted the required notice of termination (NOT).
- (17) For discharges subject to the semiannual or annual monitoring requirements of Part VI.B. of the industrial general permit, in addition to the records-retention requirements of the paragraph above, operators shall to retain for a six-year period from the date of sample collection, records of all monitoring information collected. Operators shall submit monitoring results, and/or a summary of them, to the director upon his/her request.

- (18) Where all stormwater discharges associated with industrial activity that are authorized by this article, and by the NPDES permit for those discharges from industrial activities are eliminated, or where the operator of stormwater discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the director a notice of termination (NOT) that includes the information required for notices of termination by Part IX of the industrial general permit.
- (b) Any owner of a facility with a stormwater discharge associated industrial activity to which subsection (a) applies, whether or not he/she is an operator of the facility, is jointly and severally responsible for compliance with the best management practices (BMP) measures required in the SWPPP for the facility.
- (c) Upon request by the director, all owners and operators of any facility that experiences a problem complying with the requirements of this article, the industrial general permit, or any applicable individual or group NPDES permit issued for stormwater discharges from the industrial facility, shall consult with the director, any other representative of the city, and any third party designated by the city in an attempt to achieve compliance as soon as practicable. If compliance is not achieved to the city's satisfaction, the city may, in its discretion, report the noncompliance to EPA and/or the state, and/or the city may itself undertake any enforcement action as authorized by this article. Exercise of the city's option for consultation is not a bar against, or prerequisite for, taking any other enforcement action against any owner or operator of the facility.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-66. - Compliance monitoring.

- (a) Right of entry; inspection and sampling. The director may enter the premises of any person discharging stormwater to the municipal separate storm sewer system (MS4) or to waters of the United States to determine whether 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 director ready access to all parts of the premises for the purposes of inspection, sampling, records examination, copying, and for performing any additional duties. Dischargers shall make available to the director, upon request, any SWPPPs, modifications to them, 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 system so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing his/her responsibilities.
- (2) The director may 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) The director may require any discharger to the MS4 or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges and may specify the frequency and parameters of any required monitoring.
- (4) The director may require the discharger to install monitoring equipment as necessary at the discharger's expense. The discharger shall maintain the facility's sampling and monitoring equipment be at all times in a safe and proper operating condition at its own expense. The discharger shall calibrate all devices used to measure stormwater flow and quality 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 director and shall not be replaced. The costs of clearing such access shall be borne by the discharger.

- (6) Unreasonable delays in allowing the director access to the discharger's premises are a violation of this article.
- (b) Search warrants. If the director 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 under it, or to protect the overall public health, safety, and welfare of the community, the director may seek a search warrant from any court of competent jurisdiction.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-67. - Acts adversely affecting water quality.

It is unlawful for any person to:

- (a) Maintain grease and sand traps in any automotive center, service station, vehicle maintenance center or vehicle wash operation which is not connected to the sanitary sewer.
- (b) Wash more than two (2) vehicles per twenty-four-hour period without the waste effluent being trapped and placed in the sanitary sewer.
- (c) Wash aircraft without the waste effluent being trapped and placed in the sanitary sewer.
- (d) Dump grass clippings, leaves, brush or any rubbish or debris to the curb, gutter, storm inlet, storm drain or water course.
- (e) Permit crankcase draining, drainage from engine oil filters, vehicle engine wash, or other oils or oily substances, greases, or like material to go to or remain in or on any area that may drain to the storm system or water courses.
- (f) Deposit liquid waste, semi-liquid waste, or chemical waste in any area that may drain to the storm system or water courses or dispose of them at any site other than one approved for that purpose.
- (g) Permit cooling tower, compressor, or boiler blowdown water that is not clean, untreated water to flow to the storm system or water courses.
- (h) Permit water from nurseries which is used to water plants to flow to streets and alleys to the extent that a nuisance may be created by standing water, damage may result to streets or alleys, or the free passage of foot traffic may be affected.
- (i) Permit waste water resulting from floor cleaning, rug and carpet cleaning, and laundering processes to flow to streets and alleys or into any storm drain or water course or to any place other than the sanitary sewer.
- (j) Permit filter backwash from swimming pools and fountains to drain to any area other than the sanitary sewer or connect the backwash discharge pipe to anything other than the sanitary sewer system.
- (k) Permit liquid wastes from animal pens used for kennels, animal hospitals, packing houses, poultry processing plants and dairies to flow to any area other than the sanitary sewer.
- (l) Permit unused materials from ready-mix concrete mortar, and asphalt base delivery trucks to be dumped to any area that may drain to any stream, water course storm sewer, or sanitary sewer.
- (m) Permit any residue to be disposed of or any vehicle to be washed down at any site not approved for that purpose.
- (n) Permit waste oil storage drums or any other containers which are filled or partially filled with waste oil, solvents, or chemicals to remain in the open or under the eave of a building or structure in such a manner that the storage vessels may overflow as the result of precipitation or leak as a result of corrosion or damage.

- (o) Permit old motors, transmissions, automobile parts, or any other machinery parts which are coated or partially coated with grease, oil, or solvents to remain uncovered in the open where portions of the coating materials may be washed to the storm sewers or water courses from precipitation.
- (p) Permit sewage wastes, whether domestic or industrial, to flow to any area other than a sanitary sewer or approved septic tank.
- (q) Permit any sanitary sewer pipe to be open. It is an affirmative defense to this subsection that the sewer pipe is open while being actively constructed, cleaned, repaired, or inspected.
- (r) On any premises he or she manages, owns, leases, or otherwise has control over, fail to complete repair of all malfunctioning sewer systems within seventy-two (72) hours and complete removal of all residue, and complete treatment of affected areas with a suitable disinfectant within twenty-four (24) hours after written notice. Such notice shall be effective upon the earliest of any of the following:
 - (1) Upon personal service;
 - (2) Upon delivery to the person's office during normal working hours;
 - (3) Upon posting such notice on the door to the person's residence or office; or
 - (4) Seventy-two (72) hours after depositing the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-68. - Plan for controlling accidental spills and hazardous substances.

The city council adopts as the standard for handling accidental spills and controlling hazardous substances within the city, the state oil and hazardous substances pollution contingency plan.

(Ord. No. 8140, § 1, 3-20-03)

Sec. 41-69. - Rules and regulations.

- (a) Any expenses incurred in handling an accidental spill shall be paid by the party responsible for the accident.
- (b) The director may promulgate rules and regulations that are reasonable and necessary to enforce the provisions of this article. A copy of the rules and regulations, when and if promulgated and certified as to truth and accuracy by the director, shall be filed with the city secretary of the city who shall maintain them as public record available for information.

(Ord. No. 8140, § 1, 3-20-03)