

Sec. 2-10-143. - Public utility.

- (A) The Municipal Stormwater Utility System and the related stormwater services of the City are declared to be a public utility. Existing public drainage and stormwater facilities are incorporated in the Municipal Stormwater Utility System as permitted by the Texas Local Government Code, Section 402.046.
- (B) The Municipal Stormwater Utility and its stormwater facilities, assets, and employees shall be under the administrative control of the City Manager, or his designee. The operating budget of the Municipal Stormwater Utility will be reviewed and approved by the City Council annually.
- (C) Activities regulated:

(1) *Stormwater Pollution.*(a) *Definitions of terms and enforcement procedures.*1. *Statement of purpose; administrator; and enforcement.*

- a. The intent of this section is to provide definitions of terms and enforcement procedures as set forth in this chapter.
- b. The administrator of this chapter shall be the Development Services Director.
- c. This chapter shall be enforced by staff appointed by the Development Services Director.

2. *Definitions.* The following terms shall have the following meanings for the purpose of this chapter:

Animal Processing Waste. Solid or liquid wastes generated from cleaning, skinning, grooming or curing, or processing live animals or animal carcasses.

Best Management Practices. Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. Best management practices also include treatment requirements, operating procedures, and practices to control construction site runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

Brush cuttings, clippings. All herbaceous materials, including lawn trimmings and leaves.

The City of Universal City Municipal Separate Storm Sewer System. The system of conveyances, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, creeks, streams, tributaries, man-made channels, or storm drains, which:

- (1) Provide collection or conveyance of stormwater, rainwater, floodwater, or other surface water; and
- (2) Are located on public property; and
- (3) Are not designed and intended to be part of the collection system of a sanitary sewer system utilized by a publicly owned treatment plant as defined in Title 40 C.F.R. 122.2.

Large Construction Activity: Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar stormwater conveyance. Large construction activity does not include the routine grading of existing dirt roads, gravel roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Debris: Materials of any kind which are no longer safely or properly useable for the purpose for which they were intended, or which are stored or allowed to remain in open, unsheltered space anywhere within the City in a manner which tends to create a hazard to the health, safety or welfare of the public. Debris shall include, but not limited to, scrap metal, paper, wood, cans, bottles, wire, tires, glass, rags, appliances, machinery, furniture, building materials, concrete, plastics, vehicles, farming implements, campers, trailers, motor homes, snowmobiles, motorcycles, golf carts, tractors, snow blowers, lawn mowers and all-terrain vehicles.

Development Services Director: The Development Services Director of the City, including his or her designees.

Director of Public Works: The Director of Public Works of the City, including his/her designees.

Earthwork: Any human activity involving the disposition of soil, earth, or other earthen or aggregate materials.

Environmentally Sensitive Areas: These are areas designated by the City Manager.

EPA: The United States Environmental Protection Agency.

Erosion: The wearing away of the ground surface as a result of the movement of wind, water and/or ice.

Extraterritorial Jurisdiction. The unincorporated area contiguous to corporate boundaries of the City that is located within five (5) miles of those boundaries, defined by the Texas Local Government Code and as such code may be amended.

Final Inspection: Occurs after responsible party meets definition of final stabilization and files a Notice of Termination, if required by state or federal law, at which time the City will conduct a final inspection to verify compliance with final stabilization and removal of temporary best management practices has occurred.

Final Stabilization: A construction site status where either of the following conditions are met:

- (a) All soil disturbing activities at the site have been completed and a uniform (e.g. evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy (70) percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- (b) For individual lots in a residential construction site by either: (1) the homebuilder completing final stabilization as specified in condition (a) above; or (2) the homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization.
- (c) For construction activities on land used for agricultural purposes (e.g. pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a surface water and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (a) above.

Grade: The vertical location of the ground surface.

Grading: Any land disturbance or earthwork, or combination thereof.

Household hazardous waste. Waste from materials utilized for residential or housekeeping purposes containing regulated substances which either singularly or by its interaction with other wastes or by its accumulation in the municipal separate storm sewer system becomes injurious or potentially injurious to human, plant, or animal life, or property. For purposes of this chapter household hazardous wastes include, but are not limited to, paint, paint thinners, paint solvents, bleaches, drain cleaners, landscaping chemicals, pesticides, herbicides, and automotive fluids.

Illicit Discharge. Any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a National Pollutant Discharge Elimination System or Texas Pollutant Discharge Elimination System permit (other than the National Pollutant Discharge Elimination System or Texas Pollutant Discharge Elimination System permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

Improved. Altered by man-made conditions.

Land Disturbance/Land-Disturbing Activities. Any moving or removing by manual or mechanical means of the soil mantle or top six (6) inches of soil, whichever is shallower, including, but not limited to excavations.

Measurable Volume. Pertaining to sediment, soil, soil material, or pollutant, for purposes of determining a violation of this chapter, shall be such volume as is capable of being truly and correctly depicted in a photograph, motion picture, or video recording of the sediment, soil, soil material, or pollutant in question.

Municipal Separate Storm Sewer System. All natural and man-made collection and conduit facilities within the corporate limits of the City and within applicable limits of its extraterritorial jurisdiction.

Notice of Intent. A form filed by a responsible party under Texas Commission on Environmental Quality Permit No. TXR150000 indicating that a new construction site is to be initiated and that permit coverage is required.

Notice of Termination. A form filed by a responsible party under Texas Commission on Environmental Quality Permit No. TXR150000 indicating the final stabilization has been achieved and that permit coverage is no longer required.

National Pollutant Discharge Elimination System. A program to issue authorizations to discharge pollutants into waters of the United States if certain conditions are met.

Ordinance: This chapter [#569-A-2007] in its entirety.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or the legal representatives, agents, or assigns thereof.

Pesticide. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and/or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Pollutant. Any substance introduced into the environment that adversely affects a resource. Pollutant includes, but is not limited to, soil, soil material, sediment, human waste, other wastes and debris generated at construction sites.

Responsible Party. Any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or actually perform a construction project or construction activity.

Rubbish. Inorganic solid waste including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, glass, crockery, tin and aluminum cans, metal furniture, and other like materials.

Sediment. Earth material deposited by water or wind.

Site. The location of construction activity, subject of this chapter, being within the corporate limits of the City and within the first five thousand (5,000) feet, outside such limits, within the extra-territorial jurisdiction.

Small Construction Activity. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar stormwater conveyance. Small construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Soil and/or soil material. Naturally occurring superficial deposits of earth mantle overlaying bedrock or clay; any naturally occurring surface deposit of sand, gravel, silt, clay, or any mixture thereof.

Stabilization. Installation of vegetative or structural measures to establish a soil cover to reduce soil erosion by stormwater runoff, wind ice and gravity.

Stormwater. Stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Associated with Construction Activity. Stormwater runoff from a construction activity where soil disturbing activities (including clearing, grading, excavating) result in the disturbance of one (1) or more acres of total land area, or are part of a larger common plan of development or sale that will result in disturbance of one (1) or more acres of total land area.

Stormwater Pollution Prevention Plan. The state or federally required plan for identifying and implementing appropriate measures to reduce pollutants in stormwater discharges into the City's municipal separate stormwater sewer systems, which pollutants include eroded sediments. Protective measures include, but are not limited to, construction site sequencing, limiting disturbed earth, natural and man made collection components, good housekeeping for site maintenance, revegetation, surface stabilization, and other common sense actions, all frequently referred to as best management practices.

Temporary Stabilization. A condition where exposed soils or disturbed areas are provided a protective cover, which may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place.

Texas Pollutant Discharge Elimination System. A program to issue authorizations to discharge pollutants into waters of the state if certain conditions are met.

TCEQ. Texas Commission on Environmental Quality.

Unimproved. Natural conditions, unaltered.

Utility Equipment or Hardware. Any structure, pole, support, cable, wire, conductor, pipe, conduit, or other manufactured item intended to convey or transmit public or private utility service to customers. This includes, but is not limited to, phone service, television service, gas service, electricity service, communications service, or internet service.

Waste, solid or liquid. Unwanted or undesired materials generated from any human activity, such as, but not limited to, automotive repair, landscaping, manufacturing, food processing, cooking, construction, providing medical care, photography, printing, and washing.

3. *Criminal penalty.*

- a. A conviction for violation of this chapter shall constitute a class C misdemeanor. A person convicted of a violation of this chapter shall be fined a minimum amount of not less than two hundred dollars (\$200.00) per violation and a maximum amount of not more than two thousand dollars (\$2,000.00) per violation. Each violation of a particular section of this chapter shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this chapter. A culpable mental state is not required to prove an offense under this chapter.
- b. The City Manager may designate qualified personnel to serve notices of violations of this chapter and to take all necessary actions to file a complaint with the municipal prosecutor's office.

4. *Civil penalty.* A civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation of this chapter may be imposed. Each violation of a particular section of this chapter shall constitute a separate offense, and each day such an offense is committed, continues or is allowed shall be considered a new violation for purposes of enforcing this chapter.

5. *Additional enforcement remedies.*

- a. In addition to any other remedies provided by this chapter, the City may, at any time, seek legal and/or equitable remedies or may file charges against any person, corporation, or other entity believed to be in violation of this chapter.
- b. The use of negotiated civil settlements or other methods of alternative dispute resolution to reach a civil settlement is hereby authorized; provided that the civil penalty imposed by any such agreement or settlement is of a sufficient amount in relation to the violations to which they provide a sanction.

6. *Conflict.* No provision of this chapter is intended to, nor shall any part or portion hereof be construed, so as to conflict with the Texas Water Code.

7. *Severability.* If any provision of this chapter or the application thereof to any person or circumstance shall be held any reason, the remainder of this chapter and the application of such provision to other persons and circumstances shall be valid, and the City Council hereby declares that this chapter would have been enacted without such invalid provision.
 8. *Waivers.* The Development Services Director may grant a waiver from this and other stormwater compliance requirements after a consideration of a written request for a waiver is submitted by an applicant. Waivers will be granted in whole or in part if it can be demonstrated that the waiver will not impair the attainment of the objectives of this chapter. The procedure for obtaining a waiver will comprise the following:
 - a. Submission of a written waiver application together with an application fee to be determined by the Development Services Director;
 - b. Written approval of application documentation by the Development Services Director or designated person;
 - c. A minimum of one (1) face to face meeting between applicant and Development Services Director;
 - d. Waiver decision by Development Services Director.
- (b) *Prohibited discharge into the municipal separate storm sewer system.*
1. Statement of purpose; administrator; and enforcement.
 - a. The intent of Ordinance II is to satisfy conditions imposed by the City's Texas Pollutant Discharge Elimination System Permit and Stormwater Management Program which require the City to develop and implement an illicit discharge detection and elimination program, to prohibit certain nonstormwater discharges into the City's municipal separate storm sewer system and waters of the state, and to prohibit improper waste disposal, in order to protect public health, safety and welfare.
 - b. The administrator of this chapter shall be the Development Services Director.
 - c. This chapter shall be enforced by the City's stormwater inspector.
- (c) *Prohibited discharges into the MS4.*
1. It shall be a violation of this chapter for any person to deposit, throw, drain, discharge, cause or allow to be deposited, thrown, drained or discharged, or otherwise cause to be injected into the municipal separate storm sewer system, or any storm sewer manhole, catch basin, private drain, ditch, street, gutter, creek, stream, tributary, or any other drainage device which connects with or drains into the municipal separate storm sewer system, any of the following described materials or substances within the corporate limits of the City:
 - a. Any acid waste materials;
 - b. Any alkaline waste materials;
 - c. Any animal waste;
 - d. Any pressure washing waste;
 - e. Any animal processing waste;
 - f. Any livestock waste;
 - g. Any water or waste containing free-floating, or insoluble oil;
 - h. Any gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;
 - i. Any noxious, malodorous, poisonous, or reactive substance which, either singularly or by interaction with other substances, or by its accumulation in the municipal separate storm sewer system becomes injurious or potentially injurious to human, plant or animal life, or property; or
 - j. Any domestic wastewater or industrial wastewater as defined in section 2-10-43 or 2-10-43.
 - k. Wastewater from washout of concrete and wastewater from water well drilling operations, unless managed by an appropriate control;
 - l. Wastewater from washout and cleanout of stucco, paint, from release oils, and other construction materials;

- m. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
 - n. Soaps or solvents used in vehicle and equipment washing; and,
 - o. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs.
2. It shall be a defense to prosecution under this section that such person was authorized to commit any act under a valid permit from the Texas Commission on Environmental Quality or the United States Environmental Protection Agency, which would otherwise constitute a violation at the time of commission.

Commentary: It is the intent of this chapter to prohibit indiscriminate discharging to the municipal separate storm sewer system; such indiscriminate discharging includes dumping or releasing of any accumulations of process materials, washing or cleaning materials or other wastes into the municipal separate storm sewer system. It is also the intent to eliminate improper storage or handling of dangerous, hazardous, or otherwise harmful materials in such a manner as to cause or allow their discharge into the municipal separate storm sewer system. However, these regulations are not intended to prohibit discharge of noncontaminated and nonpolluting water, such as fire hydrant flushing, runoff from fire fighting, nonchlorinated swimming pool or hot tub drainage, uncontaminated pumped groundwater, discharges from potable water sources, noncontact cooling waters, ventila-

tion and air conditioning condensation water that publicly-owned treatment works require to be discharged to separate storm sewers rather than to sanitary sewers, etc.

(d) *Placing brush cuttings, clippings, and/or rubbish into the municipal separate storm sewer system.*

- 1. It shall be a violation of this chapter for any person to deposit, discard or dump, or cause or allow to be deposited, discarded or dumped any brush cuttings, clippings, or rubbish within the municipal separate storm sewer system.
- 2. It shall be a violation of this chapter for any person to place or cause or allow to be placed or dropped, brush cuttings, clippings, and/or rubbish within any street in the corporate limits of the City in such a manner that the same may be washed by the flow of water into the municipal separate storm sewer system.

Commentary: It is the intent of this section to restrict placement of rubbish, brush, lawn clippings or leaves, etc. into the municipal separate storm sewer system. It is also the intent to require that during certain seasons when leaves are shed that these materials are removed properly and prevented from collecting in the streets or municipal separate storm sewer system. It is recognized that from time to time during certain seasons or during normal yard maintenance, leaves, clippings, etc. will fall into the streets.

(e) *Placing household hazardous wastes into the municipal separate storm sewer system.*

- 1. It shall be a violation of this chapter for any person to place, or cause or allow to be placed, a household hazardous waste within the municipal separate storm sewer system.
- 2. It shall be a violation of this chapter for any person to place, or cause or allow to be placed, a household hazardous waste within any street in the corporate limits of the City in such a manner that the same may be washed by the flow of water into the municipal separate storm sewer system.

Commentary: The intent of this chapter is to prohibit those conducting household activities such as cleaning, renovating, painting, auto repair, and other similar activities which utilize household hazardous wastes from discarding such wastes into the municipal separate storm sewer system, or from performing any activity that would result in the contamination of the municipal separate storm sewer system with such household hazardous wastes.

(f) *Prohibiting the improper use of pesticides in order to keep them from entering the municipal separate storm sewer system.*

- 1. It shall be a violation of this chapter for any person to cause or allow a pesticide to enter into the municipal separate storm sewer system.
- 2. It shall be a violation of this chapter for any person to utilize a pesticide in a manner inconsistent with the proper usage set out in the labeling for such pesticide in accordance with the Federal Insecticide, Fungicide,

and Rodenticide Act.

3. It shall be a violation of this chapter for any person to utilize a pesticide which is not properly labeled in accordance with Federal Insecticide, Fungicide, and Rodenticide Act.
4. It shall be a defense to prosecution under this section that the person accused of such violation utilized a pesticide in accordance with the requirements of Federal Insecticide, Fungicide, and Rodenticide Act in a manner consistent with its labeling. The term "labeling" pursuant to Section 136 of Federal Insecticide, Fungicide, and Rodenticide Act means all labels and all other written, printed or graphic matter: (1) Accompanying the pesticide or device at any time; or (2) To which reference is made on the label or in literature accompanying the pesticide or device except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, state experiment stations, state agricultural colleges, and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(g) *Authority to enforce outside the City limits.*

1. Pursuant to the authority granted under Section 401.002, V.T.C.A. Local Government Code, a prohibited act or discharge identified in sections 34-702 through 34-705 hereof shall be enforceable outside the City limits if the prohibited act or discharge:
 - a. Causes or contributes to the pollution of a stream, drain or tributary which provides a source of recharge water for the Edwards Aquifer; or
 - b. Causes harm to, pollutes, or is in any way contrary to the protection of any watershed which drains into the municipal separate storm sewer system.
2. It shall be a defense to prosecution under this section that a person was authorized to commit the prohibited discharges set out in section 34-702 herein, under a valid permit from the Texas Commission on Environmental Quality or the United States Environmental Protection Agency.

(h) *Authority to enforce within five thousand (5,000) feet outside the City limits.*

1. Committing a prohibited act or discharge, as set out in subsections (C)(1)(a)3. through 7. herein, within five thousand (5,000) feet outside the corporate limits of the City is found to be contrary to the public health and welfare and is hereby deemed and declared to be a nuisance pursuant to Section 217.042 of the Local Government Code.
2. It shall be a defense to prosecution under this section that a person was authorized to commit the prohibited discharges set out in subsections (C)(1)(a)3. through 7., herein, under a valid permit from the Texas Commission on Environmental Quality or the United States Environmental Protection Agency.

(i) *Power to enter property draining to the municipal separate storm sewer system.*

1. Duly authorized employees of the City bearing proper credentials and identification are entitled to enter any public or private property discharging stormwater runoff to the City's municipal separate storm sewer system at any reasonable time for the purpose of enforcing this chapter.
2. Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security and fire protection.
3. Except when caused by negligence or failure of the property's owner or operator to maintain safe conditions, the City shall indemnify the property owner or operator against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the property owner or operator and growing out of the City's entry.
4. Duly authorized employees of the City bearing proper credentials and identification are entitled to inspect stormwater discharges, discharge or pollutant sources, and activities generating any pollutant discharges in stormwater runoff.

(2) *Stormwater compliance for construction activities.*

(a) *Statement of purpose; administrator; and enforcement.*

1. Purpose:

- a. To protect public health, safety, and welfare;
 - b. To satisfy conditions imposed by the City's Texas Pollutant Discharge Elimination System Permit and Stormwater Management Program;
 - c. To protect water quality from the adverse impacts associated with erosion and sedimentation arising from active construction sites;
 - d. To implement a program to control pollutant discharges from construction sites into the City's municipal separate storm sewer system and waters of the state; and
 - e. To provide enforcement procedures and penalties for violations of this chapter.
2. The administrator of this chapter shall be the Development Services Director.
 3. This chapter shall be enforced by the City's stormwater inspector or person designated by Development Services Director.
- (b) *Applicability of "Stormwater Compliance for Construction Activity," and declaration of nuisance for violation; no culpable mental state required.*
1. Within the corporate limits of the City and within applicable limits of the City's extra-territorial jurisdiction, no person shall perform construction activity that violates provisions of this subdivision. Construction activity in violation of this subdivision is hereby declared unlawful.
 2. Violations committed within the corporate limits and within five thousand (5,000) feet outside the City's corporate limits shall also constitute public nuisance, as further provided in subsections (C)(2)(f)1. through 6., herein. Violations of any provision of this subdivision within the City's corporate limits shall be deemed a criminal Class C misdemeanor. Violations of any provision of this subdivision within the City's corporate limits or any part of the applicable extra-territorial jurisdiction shall be further subject to a civil enforcement option, more particularly described in subsections (C)(2)(f)1. through 6., herein.
 3. No culpable mental state is required of any responsible party in order to constitute a violation of this subdivision. Some of the requirements of this subdivision may be generally characterized as good housekeeping protocols, those expected to be employed by a reasonably prudent contractor, operator, owner, or other person having responsibilities for various activities on a construction site. Where state or federal permits require the site operator, owner, or other responsible party, to make a Stormwater Pollution Prevention Plan, such plans must be readily available for City inspection.
- (c) *General prohibition against construction pollution of the municipal separate storm sewer; measurable volumes for violation.*
1. It is unlawful for any person to engage in construction activity which activity results in a measurable volume of sediment, soils, soils material, or pollutants entering the City's municipal separate storm sewer system.
 2. Nothing in this section shall diminish or change the general prohibitions against municipal separate storm sewer system pollution found in this section, Prohibited discharges into the municipal separate storm sewer system. The City shall continue to exercise all enforcement powers set out in this section, and to gather such evidence as may include, but not be limited to, samples and analysis appropriate to enforcement of this section's provisions.
 3. The responsible party shall use Best Management Practices to prevent sediment, soils, soils materials, and pollutants from entering the City's municipal separate storm sewer system.
 4. It is unlawful for any person to engage in construction activity without employing Best Management Practices necessary to protect the City's municipal separate storm sewer system from run-off or other media capable of transporting sediment, soil, soil material, and pollutants into the City's municipal separate storm sewer system.
- (d) *Additional federal and state requirements generally applicable to responsible parties associated with five (5) acre or larger projects.* Proper custody of federal or state Stormwater Pollution Prevention Plan; applicable to parties required to provide Notice of Intent to the Environmental Protection Agency or the Texas Commission on

Environmental Quality; requirement to post Notice of Intent at site; requirement to make Stormwater Pollution Prevention Plan available to City inspector; and copy of Notice of Termination required by Environmental Protection Agency or the Texas Commission on Environmental Quality.

1. Concerning projects for which the Environmental Protection Agency or Texas Commission on Environmental Quality have permitting authority, the responsible party shall post at the site, as required by federal or state regulations, a true and correct copy of the Notice of Intent. A copy of the Notice of Intent shall also be sent to the City at the same time it is sent to Environmental Protection Agency or Texas Commission on Environmental Quality when applicable.
2. The responsible party shall have available for City inspection, on site, the Stormwater Pollution Prevention Plan imposed by Environmental Protection Agency or Texas Commission on Environmental Quality, when the site in question is subject to such plans imposed by federal or state law.
3. The responsible party shall make the Stormwater Pollution Prevention Plan available to the City inspector, on reasonable request made during normal working hours.
4. Failure, refusal, or inability to provide such plan for inspection, when the plan is required under state or federal law, constitutes a violation of this subdivision.
5. It shall be unlawful for any person to engage in construction activity in violation of the elements of an applicable Stormwater Pollution Prevention Plan.
6. The responsible party shall provide the City a true and correct copy of any Notice of Termination necessary to close out a project regulated by Environmental Protection Agency or Texas Commission on Environmental Quality. This copy shall be sent to the City at the time it is sent to Environmental Protection Agency or Texas Commission on Environmental Quality.
7. Where permanent improvements have been constructed, the final inspection shall verify whether or not the "final stabilization" criteria have been met.
8. Where no permanent improvements are planned, temporary Best Management Practices shall continue to be maintained until site has reached final stabilization.
9. A site shall continue to be regulated until final stabilization is achieved; and, where applicable to state and federally regulated sites, until a Notice of Termination has been filed. A copy of the Notice of Termination, if applicable, will also be filed with the City as described above at subsection (f).
10. Where the site has met final stabilization requirements, but the controls or measures implemented thereafter fail, each discharge of construction related contamination by the responsible party shall constitute a violation of this chapter.
11. Removal of temporary Best Management Practices shall be required after the site achieves final stabilization.

(e) *Best management practices guidelines.*

1. Best management practices shall be selected using engineering judgment from the most recent edition of the City's Construction Runoff Control Criteria Manual or other appropriate technical manuals.
2. Best management practices must be installed and maintained in accordance with the designer's intent and the manufacturer's instructions.

(f) *Enforcement procedures.*

1. The Development Services Director may designate enforcement staff, here designated and referred to above and hereafter as City inspectors (inspectors).
2. Upon observation of an alleged violation or condition an inspector believes constitutes a violation of this subdivision, the Inspector shall issue a field correction notice to a responsible party. The field correction notice shall be personally delivered to a responsible party, if such person is available on site; or, in the absence of such person, shall be posted at the construction site. Field correction notices shall afford two (2) twenty-four-hour periods to correct the violation alleged. The first twenty-four-hour period should be used to remediate and remove the offending material, if any, from the City's municipal separate storm sewer system. A second twenty-four-hour grace period shall follow immediately to allow the responsible party to appropriately install or repair corrective best management practice which was lacking or failed to protect City property.

3. If the violation is cured within forty-eight (48) hours, as described above, no further City action is required.
 4. If correction is not made timely, the inspector may issue a stop work order.
 5. If a stop work order is not honored at the site and/or corrective action is not timely accomplished to protect the City's municipal separate storm sewer system, citations may be issued or civil injunctive remedies with appropriate penalties may be pursued.
 6. Additional compliance time may be afforded, if within the judgment and discretion of the inspector, municipal obligations to environmental health and safety and municipal stormwater compliance obligations to enforcement agencies are not compromised.
- (g) *Declaration of nuisance within applicable limits of the City's extra-territorial jurisdiction; City's authority to enforce within five thousand (5,000) feet outside the City limits.* Under authority of the Texas Local Government Code, Section 217.042(a)(b), noncompliance with provisions of this subdivision (B), or violation of its provisions, is here declared a nuisance and by authority of the enabling statute such declaration of nuisance extends to and shall be applicable within both the corporate limits of the City and within five thousand (5,000) feet outside the limits. Accordingly, summary abatement authority rests in the City's enforcement officials when imminent threat to the public health, safety, or welfare may arise.

(3) *Land-disturbing activities.*

(a) *Statement of purpose; administrator; and enforcement.*

1. Purpose of this chapter:
 - a. To protect public health, safety, and welfare;
 - b. To satisfy conditions imposed by the City's Texas Pollutant Discharge Elimination System Permit and Stormwater Management Program;
 - c. To protect water quality from the adverse impacts associated with erosion and sedimentation;
 - d. Protect and preserve environmentally sensitive areas and prevent damage to and unnecessary removal of vegetation during the land development and construction process;
 - e. Protect the City from sediment that finds its way into streets, storm sewers, ditches and streams and which may result in additional taxes for City maintenance costs and a reduction in water quality;
 - f. Reduce sediment accumulation in streams, lakes and rivers which reduces their capacity and can result in increased flooding, impair water quality and damage property, thus reducing its use and value;
 - g. Reduce sediment loss. Promote sediment loss reduction through site design, grading and building practices in order to protect against the degradation of aquatic organisms and fish, which decreases recreational value and which promotes the growth of weeds and algae, thus reducing the waters natural ability to filter pollutants;
 - h. Promote soil conservation by minimizing natural terrain disturbances, thereby reducing sedimentation, and air and surface water pollution;
 - i. To implement a program to control pollutant discharges from construction sites into the City's municipal separate storm sewer system and waters of the state; and,
 - j. To provide enforcement procedures and penalties for violations of this chapter.
2. The administrator of this chapter shall be the Development Services Director.
3. This chapter shall be enforced by the City's stormwater inspector.

(b) *Approval and permit required.* No person, corporation, or other legal entity shall engage in removal of trees, land clearing and grading without the required Development Services Director approval and a clearing and grading permit. Clearing and grading activity shall be limited to the extent of grading area identified on the approved grading plan. A clearing and grading permit is required in the City and shall comply with the following:

1. Approval of a Site Plan;
2. Approval of a Stormwater Pollution Prevention Plan;
3. Approval of a Preliminary Plat;

4. Holding a preconstruction stormwater conference with the Development Services Director.
- (c) *Applications.* Permit applications and requirements, processing of applications, and conditions of issuance are as follows:
1. Unless previously approved through the Development Services Director, an application along with the required fee for a clearing and grading permit shall be submitted in accordance with the most recent guidance from the Development Services Director.
 2. Any permit granted under this Subchapter shall expire six (6) months from the date of issuance. Upon a showing of ongoing construction activity, the permit may be extended by the Development Services Director or inspector for additional six-month periods and for an additional fee each time.
 3. Approved plans shall not be amended without authorization of the Development Services Director.
 4. The permit may be suspended or revoked by the City because of incorrect information supplied or for any violation of the provisions of this Subchapter.
- (d) *Exemptions.* The following shall be exempt from the provisions of this Subchapter:
1. Grading and clearing in emergency situations involving immediate danger to life and property or substantial fire hazards;
 2. Grading of one (1) acre or less on a single lot, under one (1) ownership, for the purpose of construction, landscaping and/or associated improvements for a single-family residence to be constructed as indicated on the plan submitted to the Development Services Director with an application for a building permit. Such exemption shall not be applicable when the above-mentioned grading activity would directly involve environmentally sensitive areas and parcels or lots where the predominant slope is in excess of fifteen (15) percent.
 3. Any nonresidential activity where the total volume of material disturbed, stored, disposed of or used as fill does not exceed one hundred (100) cubic yards or the area disturbed does not exceed one thousand (1,000) square feet provided it does not obstruct a water course and is not located in an environmentally sensitive area.
 4. The removal of underbrush.
 5. The removal of trees which constitute a hazard to life and property based upon a City field inspection verification.
 6. Grading and clearing practices associated with normal agricultural crop operations, excluding timber cutting.
 7. Tree transplanting operations as allowed by this chapter.
- (e) *Standards and evaluation criteria.* The criteria for approving a clearing and grading permit application is as follows:
1. *General regulations.*
 - a. The grading will not create or contribute to landslides, accelerated soil creep, and settlement.
 - b. The grading will not create or contribute to flooding, erosion, or increased turbidity, situation or other forms of pollution in a watercourse;
 - c. Grading operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with anticipated build-out schedule;
 - d. Debris shall be removed from cleared sites within thirty (30) days of the completion of the clearing and grading activities.
 2. *Cuts and fills.* The following provisions apply to cut and fill activities:
 - a. Cut and fill slopes shall be no steeper than is safe for the intended use. Slopes greater than three (3) feet in height shall be no steeper than three (3) horizontal to one (1) vertical foot, except where approved retaining walls are engineered and installed and where trenches are refilled with material from the excavation.
 - b. All topsoil scraped during ground surface preparation shall be immediately removed or stockpiled on the site. Stormwater controls shall be implemented and maintained around stockpiles until stabilized. Stockpiles shall be stabilized within fourteen (14) days. All scraped topsoil shall be removed from site or

reused prior to final inspection.

- c. When the owner of any parcel shall raise, lower or alter the level or existing grade of a site by fill or excavation, they shall, at their expense:
 - (i) Protect all adjoining property from encroachment by such fill or excavation, or danger of collapse due to such excavation either by the erection of an engineered retaining wall or by sloping the sides of such fill or excavation entirely within the confines of the site; and
 - (ii) Cuts and fills shall not compromise the intent or use of existing drainage and utility easements as originally designed and approved by the City.

3. *Temporary Stabilization*. Temporary stabilization shall be established on all graded or disturbed areas not intended to be developed within fifteen (15) days from when the grading permit is issued unless otherwise arranged with staff.

4. *Clearing and excavation plans*. Clearing and Excavation Plans must meet or exceed the following criteria:

- a. Areas of soil disturbance shall be minimized using construction phasing and sequencing.
- b. Areas up-gradient of clearing and excavating activities shall be managed to minimize run-on to disturbed areas.
- c. Stormwater quality controls shall be implemented in areas down-gradient of clearing and excavating activities.
- d. Natural swales and drainage areas shall be protected from high velocities or sedimentation.
- e. Waste materials, fuels, and construction materials shall be managed and contained to avoid releases to the environment.
- f. The area of construction shall be restored to pre-construction conditions as much as feasible in light of the new construction completed.

(4) *Utility installation regulations.*

(a) *Statement of purpose; administrator; and enforcement.*

1. Purpose:
 - a. To protect public health, safety, and welfare;
 - b. To foster an orderly process of providing utility services to the public; and
 - c. To control pollutant discharges from utility installation activities.
2. The administrator of this chapter shall be the Development Services Director.
3. This Chapter shall be enforced by the City's stormwater inspector.

(b) *Utility permit*. Utility permit required for utility installation activities.

(c) *Approval and permit required*. No person, corporation, or other legal entity shall install or replace utility equipment or hardware without the approval and a permit from the Development Services Director, except as defined in subsections (C)(4)(e)1. and 2.

(d) *Utility permit applications*. Permit applications and requirements, processing of applications, and conditions of issuance are as follows:

1. Unless previously approved through the Development Services Director, an application along with the required fee for the permit

shall be submitted in accordance with the most recent guidance from the Development Services Director.

2. Development Services Director will review the application materials and will deny or issue the permit within seven (7) working days.
3. Any permit granted under this Subchapter shall expire six (6) months from the date of issuance. Upon a showing of ongoing utility installation activities, the permit may be extended by the Development Services Director or inspector for additional six-month periods.
4. Approved plans shall not be amended without authorization of the Development Services Director.

5. The permit may be suspended or revoked by the City because of incorrect information supplied or for any violation of this Subchapter.
- (e) *Exemptions.* The following shall be exempt from the provisions of this Subchapter:
1. Single power pole installations, provided that site work, include mobilization of materials and equipment, installation, clean up, and demobilization of materials and equipment occurs in less than twenty-four (24) hours.
 2. Tree trimming along wires or aerial equipment.
- (f) *Utility permit conditions.*
1. Disturbed areas must be stabilized after completion of installation work.
 2. Construction debris shall be removed from work area after completion of installation work.
 3. Stormwater erosion and sedimentation controls installed and maintained by others shall not be damaged or removed without coordinating their repair or replacement with the other contractor.
- (5) *Post-Construction Stormwater Quality Management.*
- (a) *Definition of terms and enforcement procedures.*
1. Statement of purpose; administrator, and enforcement:
 - a. To protect public health, safety, and welfare;
 - b. To satisfy conditions imposed by the City's Texas Pollutant Discharge Elimination System Permit and Stormwater Management Program;
 - c. To accommodate new development and redevelopment projects in a manner that protects public safety and that is consistent with the natural hydrologic characteristics and sustains stream baseflows, stable stream channel conditions, groundwater and surface water quality and aquatic living resources and their habitats;
 - d. To employ permanent nonstructural and structural best management practices and protect water quality thereby raising public awareness to stormwater quality issues and by removing and/or treating pollutants prior to discharge to ground and surface waters throughout the city;
 - e. Protect and preserve environmentally sensitive areas and prevent damage to water quality during the lifetime of the development project;
 - f. Protect the city from post-construction pollutants that find their way into streets, storm sewers, ditches and streams which may result in additional taxes for city maintenance costs and a reduction in water quality;
 - g. To ensure the long-term operation and maintenance of all permanent stormwater quality features;
 - h. To implement a program to control pollutant discharges during the lifetime of completed projects into the city's municipal separate storm sewer system and waters in the state; and
 - i. To provide enforcement procedures and penalties for violations of this chapter.
 2. The administrator of this Chapter shall be the Development Services Director.
 3. This Chapter shall be enforced by staff appointed by the Development Services Director.
 4. Definitions. The following terms shall have the following meanings for the purpose of this Chapter:

Applicant: The developer, owner, operator or responsible party applying for a PCSWQ permit.

As-Built: The condition where a set of construction drawings reflect all on-site changes required during the project as well as the original design intent.

Best Management Practices: Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. Best management practices also include treatment requirements, operating procedures, and practices to control construction site runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

BMP: Best Management Practices.

The City of Universal City Municipal Separate Storm Sewer System: The system of conveyances, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, creeks, streams, tributaries, manmade channels, or storm drains, which:

- (1) Provide collection or conveyance of stormwater, rainwater, floodwater, or other surface water; and
- (2) Are located on public property; and
- (3) Are not designed and intended to be part of the collection system of a sanitary sewer system utilized by a publicly owned treatment plant as defined in Title 40 C.F.R. 122.2.

Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any change in use, or alteration or extension of the use, of land.

Development Services Director: The Development Services Director of the City, including his or her designees.

Environmentally Sensitive Areas: These are areas designated by the City Manager that need special protection because of the landscape, wetland, riparian, wildlife, or historical value.

Extraterritorial Jurisdiction: The unincorporated area contiguous to corporate boundaries of the city that is located within five thousand (5,000) feet of those boundaries, defined by the Texas Local Government Code and as such Code may be amended.

Impervious surface or cover: An area that does not readily absorb water including, but not limited to, building roofs, parking and driveway areas, compacted or rolled areas that are not revegetated, sidewalks, and paved recreation areas.

Improved: Altered by manmade conditions.

Municipal Separate Storm Sewer System: A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
- (ii) Designed or used for collecting or conveying stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.

National Pollutant Discharge Elimination System: A program to issue authorizations to discharge pollutants into waters of the United States if certain conditions are met.

New Development: Any development that converts any land from an unimproved to an improved state.

Nonstructural BMP: Preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure; education programs for

developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas.

Ordinance: This chapter in its entirety.

Owner or Operator: Owner or operator of any "facility or activity" subject to regulation under this chapter.

Person: Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or the legal representatives, agents, or assigns thereof.

PCSWQ: Post-Construction Stormwater Quality.

Permittee: Any PCSWQ permit applicant or owner and/or operator of a permitted post-construction structural stormwater quality control.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and/or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Plans: A set of construction or as-built drawings sealed by a professional engineer that describe post-construction stormwater quality controls.

Pollutant: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Post-Construction Stormwater Quality Permit: Permit required for all new development and significant redevelopment projects as defined by this chapter.

Redevelopment: Any development that alters the condition of previously developed land.

Responsible Party: Any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or actually perform a construction project or construction activity.

Significant Redevelopment: Any redevelopment that adds an impervious surface area or cover of three thousand six hundred (3,600) square feet to the project's original impervious area total.

Stormwater: Stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater Quality Control: Any nonstructural or structural BMP implemented to protect the quality of stormwater.

Structural BMP: Any storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches.

Texas Pollutant Discharge Elimination System: A program to issue authorizations to discharge pollutants into waters of the state if certain conditions are met.

Unimproved: Natural conditions, unaltered.

Water in the State: Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt,

navigable or nonnavigable, 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.

Waters of the United States:

- (a) 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;
- (b) All interstate waters, including interstate "wetlands";
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;
 - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 C.F.R. 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. [See Note 1 of this section.] Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

- (b) *Approval and Permit Required.* No person, corporation, or other legal entity shall engage in new development or redevelopment projects without the required Development Services Director approval and a post-construction stormwater quality permit. Nonstructural and structural best management practices shall be required and shall be in accordance with this chapter, the latest editions of the City of Universal City Detention Ponds and Permanent Stormwater Quality Best Management Practices Design Criteria Manual and the City of Universal City Plan Review and Approval Procedures and Long-Term Operation and Maintenance Provisions for Post-Construction Best Management Practices.
- (c) *Applications.* Permit applications and requirements, processing of applications, and conditions of issuance are as follows:
 - 1. Unless previously approved through the Development Services Director, an application along with the required plans, documentation and fee for a PCSWQ permit shall be submitted in accordance with the most recent guidance from the Development Services Director. Detailed guidance shall be provided in the latest edition of the City of Universal City Plan Review and Approval Procedures, and Long-Term Provisions for Post-Construction Best Management Practices.
 - 2. The following general application procedures shall apply:
 - a. A pre-application meeting shall be conducted between the applicant/owner/developer and the Development Services Director to discuss issues related to the development project and the permit requirements. The option of a Regional Stormwater Facility fee in lieu of a PCSWQ permit shall be discussed at this meeting.
 - b. The owner/developer shall submit a PCSWQ permit application prior to the commencement of

construction activities. The application packet shall include:

- (i) A completed application form;
 - (ii) Post-Construction Stormwater Quality Plans (showing structural and/or nonstructural BMPs and operation and maintenance schedules, if applicable);
 - (iii) Application fee voucher/receipt;
 - (iv) Proposed title or deed restriction language obligating property owner to maintain and implement stormwater BMPs;
- c. The owner/developer shall submit as-built construction plans, certified by a registered professional engineer, within sixty (60) days of completion of construction activities.
 - d. The owner/developer shall submit an affidavit of compliance within thirty (30) days of permit approval.
 - e. The owner/developer shall submit a fully executed title or deed amendment obligating the owner to maintain and implement stormwater BMPs.
3. Initial plan review comments and/or approval shall be provided within forty-five (45) days after the Development Services Director notifies the applicant that the submitted application is technically complete. Subsequent comments and approvals shall be provided within fifteen (15) days of a complete submittal.
 4. Any permit granted under this Subchapter/section shall expire and be subject to renewal requirements twelve (12) months from the date of issuance. A thirty-day grace period shall be granted after permit expiration before the permittee is considered in violation of city ordinance.
 5. Development activity under the PCSWQ permit must begin within one hundred eighty (180) days from the date of issuance. Extensions to the period of validity of the PCSWQ permit prior to the start of development activities must be requested by the permittee in writing to the Development Services Director.
 6. Approved plans shall not be amended without authorization of the Development Services Director.
 7. The permit may be suspended or revoked by the City because of incorrect information supplied or for any violation of the provisions of this Subchapter.
- (d) *Renewals.* Permit renewal requirements, and conditions of renewal are as follows:
1. The PCSWQ permit shall be renewed annually. Detailed guidance shall be provided in the latest edition of the City of Universal City Plan Review and Approval Procedures, and Long-Term Provisions for Post-Construction Best Management Practices.
 2. The owner/developer shall submit a PCSWQ permit renewal packet within thirty (30) days of expiration of the permit. The renewal packet shall include:
 - a. A completed renewal form;
 - b. A completed certificate of proper operation; and
 - c. An As-built certification by a professional engineer.
 3. The city shall conduct, at its discretion, an inspection of the structural stormwater quality control prior to approval of the renewal request. Inspection results shall be used as part of the evaluation process for the renewal request.
- (e) *Exemptions.* With the approval of the Development Services Director, the following activities may be exempted from the provisions of this subchapter/section:
1. Any project that has received an initial construction plan review from the city by effective date of this chapter, or has obtained a valid development permit from the city before the effective date of this chapter provided the project is substantially underway one (1) year from the effective date of this chapter.
 2. Any project that has, prior to the effective date of this chapter, received a completed and unexpired application for a preliminary or final subdivision plat on file with the city provided the project is substantially underway one (1) year from the effective date of this permit.
 3. Any channel, basin, roadway, or bridge projects, if the date of authorization or notice to proceed with the preliminary engineering report from the city to the consultant is prior to the effective date of this chapter.

4. Any linear projects such as underground pipelines, utilities, or drainage where the resulting impervious surface is thousand six hundred (3,600) square feet. Plans and drawings showing the total resultant impervious surface must be submitted to the Development Services Director for this exemption. Future extensions or changes to the impervious surface shall exceed the three thousand six hundred (3,600) square feet threshold.
5. Any new development or redevelopment project that has or will have permit coverage under the Texas Pollutant Discharge Elimination System Industrial Stormwater Permit issued by the Texas Commission on Environmental Quality (TCEQ). In lieu of the PCSWQ permit, the owner/developer/operator shall submit an Industrial Activity Certification (to be provided by the Development Services Director) and any one (1) of the following:
 - a. A copy of the application for an individual permit from the TCEQ or the U.S. Environmental Protection Agency (EPA) for Stormwater Discharges Associated with Industrial activity at the facility.
 - b. A copy of the permit issued by the TCEQ or EPA for Stormwater Associated Industrial Activity at the facility.
 - c. A copy of the Notice of Intent (NOI) for coverage under a general permit for Stormwater Discharges Associated with Industrial Activity issued by the TCEQ, or the No Exposure Certification (NEC) for Stormwater Discharges Associated with Industrial Activity.
 - d. A statement of commitment to file an application for an individual permit from the TCEQ for Stormwater Discharges Associated with Industrial Activity at the facility.
 - e. A statement of commitment to file an NOI for coverage under a general permit for Stormwater Discharges Associated with Industrial Activity issued by the TCEQ.
- (f) *Standards and Evaluation Criteria.* The standards for evaluating the applications for new or renewed PCSWQ permits will be provided by the Development Services Director from time to time in the latest edition of the City of Universal City Plan Review and Approval Procedures and Long-Term Operation and Maintenance Provisions for Post-Construction Best Management Practices. Design guidelines for nonstructural and structural controls shall be provided in the latest edition of the City of Universal City Permanent Stormwater Quality Best Management Practices Design Criteria Manual.
- (g) *Appeals.* If an application for a PCSWQ permit is denied or the permit is suspended, revoked or not renewed by the city, the applicant or permittee may appeal the decision of the Development Services Director. All appeals shall be routed through the Universal City Board of Adjustments as established by Ordinance 581. The applicant or permittee may dispute the Board of Adjustment decision in a District Court or County Court at Law in accordance with Ordinance 581. The appeal of a denial, suspension, or revocation of the PCSWQ permit shall not relieve the permittee of any penalties accrued following the expiration of the thirty-day grace period.
- (h) *Waivers and Variances.* The Development Services Director may grant a waiver or variance from the requirements of the PCSWQ permit after a consideration of a written request for a waiver is submitted by an applicant. Waivers and variances will be granted in whole or in part if it can be demonstrated that the waiver will not impair the attainment of the objectives of this chapter/section and the waiver or variance will not result in a pollutant discharge, additional threats to public safety, extraordinary public expense, or create nuisances or cause fraud or victimization to the public.
- (i) *Conflicts.* No provision of this chapter is intended to, nor shall any part or portion hereof be construed, so as to conflict with the Texas Water Code.
- (j) *Enforcement and Penalties.* The city shall enforce the requirements of the PCSWQ permit as follows:
 1. The city shall suspend or revoke PCSWQ permits and/or deny annual permit renewal requests and fine permittees to enforce compliance with the provisions of this chapter/section. A thirty-day grace period will be granted before the city begins criminal or civil proceedings.
 2. Criminal penalty.
 - a. A conviction for violation of this chapter shall constitute a class C misdemeanor. A person convicted of a violation of this chapter shall be fined a minimum amount of not less than two hundred dollars (\$200.00) per violation and a maximum amount of not more than two thousand dollars (\$2,000.00) per violation.

Each violation of a particular section of this chapter shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this chapter. A culpable mental state is not required to prove an offense under this chapter.

- b. The City Manager may designate qualified personnel to serve notices of violations of this chapter and to take all necessary actions to file a complaint with the municipal prosecutor's office.
3. Civil penalty. A civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation of this chapter may be imposed. Each violation of a particular section of this chapter shall constitute a separate offense, and each day such an offense is committed, continues or is allowed shall be considered a new violation for purposes of enforcing this chapter.
4. Additional enforcement remedies.
 - a. In addition to any other remedies provided by this chapter, the City may, at any time, seek legal and/or equitable remedies or may file charges against any person, corporation, or other entity believed to be in violation of this chapter.
 - b. The use of negotiated civil settlements or other methods of alternative dispute resolution to reach a civil settlement is hereby authorized; provided that the civil penalty imposed by any such agreement or settlement is of a sufficient amount in relation to the violations to which they provide a sanction.

(6) *Stormwater Detention And Runoff Control.*

(a) *Definition of terms and enforcement procedures.*

1. Statement of purpose; administrator, and enforcement:
 - a. To provide guidance to City Staff, landowners, developers, builders, and other interested parties relative to the Stormwater Detention and Runoff Control requirements of the City of Universal City;
 - b. To specify the general Stormwater Detention and runoff Control requirements. Detailed requirements are included in the City of Universal City Detention Ponds and Permanent Stormwater Quality Best Management Practices Design Criteria Manual;
 - c. To provide adequate measures for the detention and distribution of stormwater in a manner that minimizes the possibility of adverse impacts of water quantity and velocity after development;
 - d. To minimize flooding of structures, preserve natural waterways, protect wildlife habitat, enhance the recharge of groundwater, and maintain the function of critical environmental features;
 - e. Protect watercourses and their associated watersheds within the City of Universal City's jurisdiction in a manner that preserves the significant and irreplaceable recreational and aesthetic resources, and the economic and environmental health of the city;
 - f. To promote development activities in a comprehensive, sound, safe, sensitive and innovative manner to reduce the impacts of concentrated surface water runoff, erosion and sedimentation of streams and channels, potential flooding of structures, and disturbance of natural habitat for wildlife;
 - g. To encourage retention of the 100-year floodplains as natural drainageways; minimize new, permanent construction in the 100-year floodplains and natural drainageways, and avoid unnecessary straightening, bank clearing or channelizing of those natural waterways;
 - h. Adopt effective stormwater detention and runoff control practices throughout the City and its many watersheds to include site specific measures designed to:
 - (i) Minimize increased stormwater runoff from new development or redevelopment;
 - (ii) Provide for the continuation of stream flows through the watersheds at current or planned levels;
 - (iii) Require on-site stormwater detention facilities, or participate in regional detention facilities as appropriate;
 - i. To ensure the long-term operation and maintenance of all stormwater management facilities.
2. The administrator of this Chapter shall be the Development Services Director.
3. This Chapter shall be enforced by staff appointed by the Development Services Director.
4. Definitions. The following terms shall have the following meanings for the purpose of this Chapter:

Buffer areas: A designated area around a stream, water body, or drainageway as defined by the City.

Community Association: See Homeowner's Association.

Developer: Any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or actually perform a construction project or construction activity.

Development: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Design Surface Elevation: Design water surface elevation (see water surface elevation).

DSE: Design Surface Elevation.

Development Services Director: As defined in the Post-Construction Stormwater Quality Management Ordinance.

ETJ: Extraterritorial Jurisdiction.

Extraterritorial Jurisdiction: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Flood or flooding: As defined in the Flood Control Ordinance.

Floodplain: As defined in the Flood Control Ordinance.

Homeowner's Association: An incorporated or unincorporated association owned by or whose members consist primarily of the owners of the property covered by a dedicatory instrument and through which the owners, or the board of directors or similar governing body, manage or regulate the single-family residential subdivision that has as one (1) of its purposes the continued care and maintenance of all commonly-owned properties within the subdivision, particularly the areas established for stormwater management facilities and the authority and means to impose binding assessments upon the lot owners for that purpose.

Impervious surface or cover: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Improved: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Municipal Separate Storm Sewer System: As defined in the Post-Construction Stormwater Quality Management Ordinance.

National Pollutant Discharge Elimination System: As defined in the Post-Construction Stormwater Quality Management Ordinance.

New Development: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Ordinance: This chapter in its entirety.

Operator or owner: Owner or operator of any "facility or activity" subject to regulation under this chapter.

Person: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Plans: A set of construction or as-built drawings sealed by a professional engineer that describe stormwater detention and runoff control facilities.

Property Owner's Association: See Homeowner's Association.

Redevelopment: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Regional Stormwater Detention Facilities: Stormwater facilities strategically located within the City as part of the Regional Stormwater Detention Program.

Regional Stormwater Detention Program: A stormwater program that follows the goals, objectives and standards as outlined this chapter.

RSWDP: Regional Stormwater Detention Program.

RSWDF: Regional Stormwater Detention Facility.

Stormwater: Stormwater runoff, snow melt runoff, and surface runoff and drainage.

Texas Pollutant Discharge Elimination System: A program to issue authorizations to discharge pollutants into waters of the state if certain conditions are met.

TPDES: Texas Pollutant Discharge Elimination System.

Unimproved: As defined in the Post-Construction Stormwater Quality Management Ordinance.

Water Surface Elevation: As defined in the Flood Control Ordinance.

- (b) *General Provisions and Stormwater Management Plan.* The applicability, stormwater management requirements and resolution of issues shall be as follows:
1. The provisions of this section shall apply to any application for subdivision plat or commercial building permit approval except as otherwise provided by this chapter.
 2. For any subdivision plat or commercial building permit submitted to the City after the effective date of this chapter, a stormwater management plan shall be provided in accordance with this chapter and the City of Universal City Detention Ponds and Permanent Stormwater Quality Best Management Practices Design Criteria Manual. The plan shall be sealed by a professional engineer and include an operation and maintenance schedule for stormwater facilities.
 3. Subdivision plats are governed by Section 4-2, Article II, and Commercial building permits are governed by Section 4-6 or the Universal City Codes of Ordinances. Any issues that arise from the technical aspects of this chapter shall be resolved by the Development Services Director and/or his designee in accordance with City of Universal City ordinances, policies, and procedures. Final Authority for enforcement of this chapter rests with the City Manager and/or his designee.
- (c) *Regional Stormwater Detention Program.* The following general program goals, requirements and design standards shall apply to all activities pursuant to subsection (b) of this chapter:
1. *Program Goals and Requirements.*
 - a. The City has determined that regional stormwater detention is preferable to site-specific detention providing sites are available for such regional stormwater facilities in the same watershed, and providing the applicant contributes an appropriate amount of funds (fee in lieu of construction) to the City (or constructing entity if not the City) to approximate the cost of constructing such facilities on-site. On an annual basis the City Council shall review and set the fees to be paid in lieu of construction. Those fees will vary based upon the type of development, amount of runoff, and anticipated contribution from the development site to the City's receiving streams and waterways.
 - b. The regional stormwater detention provides for the administration, planning, design, construction, and operational management of regional stormwater detention facilities (RSWDF). Regional stormwater detention uses a watershed-wide approach to analyze potential flooding problems, identify appropriate mitigation measures and select site locations and design criteria for RSWDF. These RSWDF include, but are not limited to, regional detention ponds, creek and drainageway expansion and enhancement, storm sewer systems, bridges, culverts, and other improved conveyance structures.
 - c. The regional stormwater detention program allows owners, developers, and builders to participate in the program rather than constructing the on-site detention controls required by this section, where the resulting use of a RSWDF will not produce a significant adverse impact to other properties downstream of the development due to the increased runoff from the proposed development.
 - d. Options available to owners, developers, and builders to participate in the Regional Stormwater Detention Program (RSWDP) include:
 - (i) Payment of a fee in lieu of on-site detention. The fee schedule will be adopted by the Universal City

Council on an annual basis.

- (ii) Construction of a RSWDF to mitigate an existing flooding problem with contributions from the City and/or other property owners.
 - (iii) Participation in the construction of a RSWDF by another owner, developer, or builder so as to mitigate increased stormwater runoff anticipated by the ultimate development of the watershed.
 - (iv) Other methods authorized by the City Manager or his designee.
- e. To determine a significant adverse impact for the purposes of this section, the following criteria will be used to analyze the receiving stormwater detention facility for two thousand (2,000) linear feet downstream of the project or to the nearest downstream RSWDF, whichever is less. The two thousand (2,000) linear feet is based on an estimate that this length will approximate a one hundred-acre drainage area. The one hundred-acre drainage area represents the lower limit for a 100-year frequency stormwater facility design.
- (i) The design surface elevation (DSE) in the receiving stream or drainageway may not be increased within the two thousand (2,000) linear feet from the development unless the increased DSE is contained within an easement or right-of-way or the receiving stream or drainageway has sufficient capacity to contain the increased DSE without causing flooding to any habitable structure.
 - (ii) Where low water crossings exist within the study area, the DSE cannot be increased above the level of the 100-year ultimate development water surface at the low water crossing. The increase in flow at the low water crossing for the five-year, twenty-five-year and 100-year frequency design must not reclassify the low water crossing from a safe to a dangerous condition crossing. If the increased DSE exceeds this criterion, the development can improve the low water crossing in accordance with City standards in lieu of providing for onsite controls or paying a fee.
 - (iii) Where a development is upstream of an existing San Antonio River Authority (SARA) flood control facility or other detention facility constructed prior to 2008, analyses must be provided to ensure that capacity exists within the facility to accommodate the increased runoff from the proposed development.
 - (iv) The City may reject a Developer's request to participate in the RSWMP and require on-site detention. The city's decision will be based on the knowledge of significant adverse impacts that would be created within the watershed by the proposed development regardless of the distance from the development to the area impacted. The city may also reject a request for participation when it is not in the best interests of the RSWDP. It is recommended that the developer meet with the Director of Development Services or her designee to discuss participation options prior to commencing a project. This preliminary meeting in no way relieves the landowner, developer, or builder of his responsibility to prepare the necessary engineering documentation to support his request for participation.
- f. The stormwater development fee in lieu of on-site detention must be paid prior to a plat being released for recordation by the City or the issuance of a commercial building permit. The fee shall be determined in accordance with stormwater management fees established by the City Council.
- g. Responsibility to Accept Stormwater. The owner or developer of property to be developed shall be responsible for the conveyance of all stormwater flowing to the property from any source. This responsibility includes the stormwater flowing onto the property by any other developed property as well as the drainage naturally flowing through the property by reason of topography. Future upstream development shall be accounted for by assuming ultimate development when sizing drainageways and facilities as specified in this section.

2. *General Design Criteria and Standards.*

- a. *System Criteria.* The criteria, standards, and methods for calculation of system improvements, additions, and enhancements can be found in the City of Universal City Detention Ponds and Permanent Stormwater Quality Best Management Practices Design Criteria Manual. Copies of this document are

available from the City Secretary, the Director of Public Works, and the Director of Development Services. The general requirements are as follows:

- (i) All stormwater management facilities, or combination of facilities, shall be designed for ultimate development based upon a 100-year storm.
- (ii) Detention facilities and streets are exceptions to the frequency criteria cited above. Detention facility outflows will be designed to operate effectively for a five-year, twenty-five-year and 100-year frequency storms.
- (iii) The three (3) development conditions that shall be analyzed for each development are:
 - (a) *Existing Conditions*. This refers to current development conditions in the watershed and on-site. Use existing conditions as the baseline analysis for determining the impact of development.
 - (b) *Proposed Conditions*. This refers to existing conditions with the proposed development added. Use proposed conditions to determine if the increased runoff from the proposed development results in an adverse impact to other properties.
 - (c) *Ultimate Conditions*. This refers to ultimate development conditions within the watershed used to design the drainage facilities. This condition may be used in lieu of subsection 2. above, to determine if the increased runoff from the ultimate watershed development results in an adverse impact to other properties.
- b. *Positive Overflow Pathways*. For commercial development, the on-site drainage systems shall be designed to ensure that a positive overflow pathway is provided from all points on the site to the nearest stormwater conveyance facility. The overflow pathway must be delineated on a plan that shows all existing or proposed structures on the site plan to ensure that such buildings are not impacted by that overflow pathway.
- c. *New Development*. Peak stormwater runoff rates from all new development shall be less than or equal to the peak runoff rates from the site's predevelopment conditions for the five-year, twenty-five-year and 100-year design storm events.
- d. *Redevelopment*. Peak stormwater runoff rates from an area of redevelopment shall be less than or equal to the peak runoff rates produced by existing development conditions for the five-year, twenty-five-year and 100-year design storm events.
- e. *Drainage Easements/Rights-of-Way*.
 - (i) *Applicability*. Where a subdivision is traversed by a watercourse, drainageway, natural channel or stream, an easement or right-of-way shall be provided conforming substantially to the limit of such watercourse, plus additional width as outlined below.
 - (ii) *Requirements*. Easement or rights-of-way are required for the following stormwater management facilities:
 - (a) Natural Watercourses and/or 100-year Floodplains;
 - (b) Regional Detention Facilities;
 - (c) Concrete Lined Channels;
 - (d) Vegetated Earth Channels;
 - (e) Storm Sewers.
- f. *Natural Watercourses or Floodplains*. Easements for natural watercourses shall include as a minimum the 100-year floodplain. In floodplain areas where ongoing maintenance is required or the floodplain will be reserved for use by the public, the drainage easements shall be maintained by a public entity and the property will be dedicated to the city as a multi-use drainage easement. A drivable access way shall be provided in floodplain easements for the length of the easement when regular maintenance of the floodplain is required. Diversion of stormwater away from the natural watercourse will not be allowed except within the boundaries of the property controlled by the developer(s), provided that the diverted

water is returned to the watercourse within which it would naturally have been flowing prior to leaving the developer's property. The City will consider agreements between multiple parties leading to improvements to waterways within separately owned parcels. An analysis of the routing and timing of the diverted stormwater must be performed to show that the peak flow rate in the receiving watercourse has not been increased as a result of the diversion.

- g. *Maintenance Access Right-of-Way.* An unobstructed access right-of-way connecting the drainage easement with an alley or roadway parallel to or near the easement shall be provided at a minimum spacing of one (1) access right-of-way for every one thousand-foot interval along the length of the drainageway. The access right-of-way shall be a minimum of fifteen (15) feet in width, have a hard surface drive, and be maintained clear of obstructions that would limit maintenance vehicle access. If the flow line of the designed channel incorporates grade control structures or vehicular bridges that would prevent maintenance equipment from accessing that portion of the channel, additional access points may be required. The proposed drainageway shall have ramps in the side slopes near the access points that would allow maintenance equipment to descend to the floor of the channel or drainageway. The maximum allowable ramp slope for vehicular access is seven to one (7:1). Access points adjacent to roadways or alleys shall be provided with a post and cable feature with padlock to prevent unauthorized use.
- h. *Lot and Property Line Crossings.* In those cases where drainage easements cross lot and property lines, a statement shall be added to the plat or site plan that no fencing or structures will be allowed on or across such drainage easements.
- i. *Fencing.* Fencing is not allowed to cross drainage easements unless a floodplain development permit is obtained from the Director of Development Services for the City. Property fences must be placed outside of or on the edge of the 100-year floodplain. Only wrought iron fencing material will be allowed.
- j. *Lower Elevation of Site.* All developments shall provide for adequate drainage outfall at the lower end of the site into an existing drainageway, drainage easement or right-of-way, or to the centerline of an existing natural drain. Where proposed streets, storm sewers, or open channels do not discharge into a natural low or into an existing drainage easement, facilities and drainage easements of adequate width to contain the design discharge shall be constructed and dedicated to the centerline of an existing natural low within the same watershed. However, where the natural low lies within the developer's property, the developer will be required only to plat an easement to the centerline of the natural low, provided that the easement is adequate to accommodate the facilities that will be built in conjunction with the future development of that property.
- k. *Site Design and Grading.*
 - (i) All land disturbing or land filling activities or soil storage shall be undertaken in a manner designed to minimize surface runoff, erosion and sedimentation, and to safeguard life, limb, property and the public welfare in accordance with the Universal City NPDES/TPDES Construction Site Regulation Ordinance, See [Chapter 3-10](#) as amended, and the document entitled "Complying with the Edwards Aquifer Rules; Technical Guidance on Best Management Practices", by Michael E. Barrett, Ph.D., P.E. Center for Research in Water Resources, Bureau of Engineering Research, University of Texas at Austin, (RG-348, June 1999), which documents are hereby incorporated by this reference.
 - (ii) Erosion and sedimentation controls are required in accordance with the specifications established by the City and enforced by the Stormwater Inspector in compliance with the National Pollution Discharge Elimination System (NPDES) permitting requirements and the Texas version of that known at TPDES.
 - (iii) Projects shall not be considered complete until restoration has been made in accordance with City, TCEQ, and NPDES requirements.
 - (iv) A note must be placed on the plat for residential lots, which states that finished floor elevations must be a minimum of eight (8) inches above final adjacent grade. A grading plan shall be prepared and submitted to the City which indicates typical lot grading for all lots in the subdivision using

typical FHA lot grading types (A, B, or C). A more detailed grading plan is also acceptable. No more than two (2) average residential lots may drain onto another lot unless a drainage easement is dedicated to contain the runoff.

(d) *Standards for Stormwater Management Facilities.*

1. *Stormwater Detention Facilities.*

- a. For projects with an increased impervious area of five (5.0) acres or more, the owner, developer, or builder may elect to construct a stormwater detention facility or pay a fee in lieu of construction to the City in accordance with this chapter.
- b. For projects with an increased impervious cover of less than five (5.0) acres, the owner, developer, or builder must pay a fee in lieu of constructing a detention facility as described above.
- c. These stormwater detention facilities shall be designed to mitigate peak flow rates to predevelopment or existing development conditions.
- d. **Maximum Outflow Rate.** The maximum allowable outflow rate from the detention facility must be restricted to the flow rate from the undeveloped or existing development tract for the five-year, twenty-five-year and 100-year frequency. The timing of the hydrograph for stormwater released from the detention facility must be checked against the timing of the flow rate in the first open watercourse to prevent any increase in the peak flow rate in the receiving watercourse. For detention basins constructed in-line on an existing watercourse, the creation of the basin shall not increase flood elevations in the channel upstream of the new development boundaries.
- e. **On-Site Detention.** On-site detention facilities must be privately owned and shall be maintained by the community association or property owner. A maintenance schedule shall be submitted to the Public Works Department and approved by the Stormwater Inspector prior to approval of construction plans. The City will have the right to do periodic inspections of privately owned and maintained detention facilities to ensure that the maintenance schedule is being implemented. Where a detention facility accepts flows from public facilities such as city rights-of-way, the detention facility will be considered a detention facility serving a public purpose and will be dedicated to the city upon completion and a drainage easement will be dedicated to provide for access to the facility. When a regional detention facility accepts flow from an area exceeding three hundred (300) acres, the facility shall be considered serving a public purpose and shall be dedicated to the city.
- f. **Fee-in-lieu of Detention Facility Construction.** The following fees are established as fee-in-lieu of providing detention for participation in the regional stormwater management program of the City of Universal City.

Development Type/Land Use Type	Fee (per sq ft of impervious cover)
Single Family or Two-Family (Duplex)	\$0.15
Multi-Family (Apartments & 4-plexes)	\$0.15
Commercial & Industrial	\$0.20
Public Facilities (including schools)	\$0.15
Building permits with additional impervious cover	\$0.15

- a. Development type for unzoned parcels (e.g. in the City's extraterritorial jurisdiction, or ETJ) shall be based on the current development patterns.

- b. **Assessment.** The Stormwater fee-in-lieu of Detention shall be assessed at the time a final residential subdivision family or non-residential permit is approved.
 - c. **Collection.** The Stormwater fee-in-lieu of Detention shall be paid before a residential subdivision plat is recorded, or a multi-family or non-residential building permit is issued.
2. *Regional Detention Facilities.*
- a. **Locating Regional Detention Facilities.** General locations and sizes of regional detention facilities have been identified in the City's master drainage plan for the major watersheds in the City's jurisdiction. The ownership of regional detention facilities may either be public or private. The creation of regional detention facilities designed to service one (1) or several developments is encouraged, but not required. In watersheds where public regional detention facilities exist, mitigation of increased stormwater runoff from new construction may utilize these facilities if the new construction is eligible to participate in the RSWMP. Temporary detention may be required for the development until sufficient capacity in the outfall channel is provided to accommodate increased flows. Maintenance of publicly owned facilities will be the responsibility of the city. Maintenance of private facilities is the responsibility of the property owner or the community association and must be specified in the maintenance schedule submitted to the city. A maintenance schedule for both publicly owned and privately owned facilities must be approved by the Stormwater Inspector prior to approval of construction drawings.
 - b. **Drainage easements** will be provided for all regional detention facilities. The easement will encompass the 100-year pool elevation plus all structural improvements (levees, dykes, berms, outfall structures etc.) necessary to contain the pool. The easement will extend, at a minimum, to the toe of the downstream embankment. Maintenance access (fifteen-foot minimum) will be provided around the facility, outside the limits of the 100-year pool elevation. Ramps, as necessary, with a maximum slope of seven to one (7:1) will be provided for access to the flow line of the facility.
 - c. **Multi-Use Facilities.** Multi-use facilities are encouraged, but not required (multi-use facilities allow for water quality, satisfy NPDES requirements, enhance groundwater recharge, provide open space, provide recreation or other amenities, and/or provide habitat) and may be utilized so long as the facility meets the standards set forth in subsection (a) of this section and does not increase the rate or volume of erosion above that which would result from the use of a facility without multiple uses. The use of multi-use detention facilities to alleviate existing flooding problems, enhance and provide amenities for older neighborhoods, and support the revitalization of economically depressed areas is encouraged in public and private redevelopment initiatives.
 - d. **Permanent Wet Pool or Pumped Detention Systems.** Stormwater retention with permanent wet pool or pumped detention systems will not be acceptable methods of stormwater mitigation unless the facility will remain privately owned, operated, and maintained.
3. *Storm Sewers.*
- a. For all ordinary conditions, storm sewers shall be designed on the assumption that they will flow full under the design discharge; however, whenever the system is placed under a pressure head, or there are constrictions, turns, submerged or inadequate outfall, etc., the hydraulic and energy grade lines shall be computed and plotted in profile. In all cases adequate outfalls shall be provided and the system adequately designed.
 - b. No storm sewers shall be less than twenty-four (24) inches in diameter.
 - c. Minimum easement widths for storm sewers will be the greater of twenty (20) feet or ten (10) feet on one side and four (4) feet on the other side of the extreme limits of the storm sewer width, whichever is greater. For example, the easement width for a three-barrel, ten-foot wide box culvert with six-inch walls would be $(3 \times 10') + (4 \times 0.5') + (2 \times 6') = 44'$ and that is greater than fifteen (15) feet.
4. *Creeks, Drainage Channels and Waterways.* This section addresses proposed improvements or modifications to creeks, drainage channels, and waterways required to convey stormwater runoff from or through the proposed development.

- a. *Waterways to Remain Unobstructed.* Except as authorized by a development plan approved by the Stormwater person shall place or cause to be placed any obstruction of any kind in any waterway within the city and its within the city, through which any waterway may pass, shall keep the waterway free from any obstruction in plan.
- b. *Channel Modifications.*
 - (i) Modifications to existing waterways or newly created open channels may be designed as earth channels or sod channels. Liners other than concrete which enhance the aesthetics or habitat value of the watercourse and which reduce future maintenance requirements are encouraged. Examples include pavers or geosynthetics. Preliminary plans for the applicability of other channel liners shall be reviewed with the director of public works or his representative prior to the submittal of construction plans for approval.
 - (ii) Natural Unimproved Creeks and Waterways. Runoff that results from upstream development and is discharged to an unimproved creek or waterway can cause flood damage to properties adjacent to and downstream of the creek or waterway. Natural undeveloped waterways do not receive regular maintenance. Design of natural waterways shall take into consideration fluvial geomorphologic principals and practices. Consulting engineers and development review officials shall work to resolve potential downstream impact issues.
- c. *Maintenance.* Design of new channels or alterations to existing channels shall consider future maintenance requirements. A maintenance schedule for any private channel shall be submitted to and approved by the Stormwater Inspector prior to approval of construction plans. Maintenance requirements of concrete swales consist of de-silting activities, prevention of vegetation establishment in construction joints, and repair of concrete as necessary. Maintenance of earthen channels includes regular observation and repair, as necessary, avoidance of erosion and scouring, and removal of silt deposits, as necessary to maintain approved design cross sections. Property owners shall be responsible for maintaining the vegetation in a newly planted channel until coverage is established throughout eighty-five (85) percent of the area. This area shall include slopes, floor, and any attendant maintenance easements. New earthen channels shall be planted with drought resistant, low growth, native species grasses, which will allow unobstructed passage of floodwaters. Johnson grass, giant tagweed and other invasive species shall not be allowed to promulgate in channels. Suggested species of grasses shall include, but not be limited to, common bermuda, coastal bermuda, buffalo grass, little bluestem, and indian grass. Mowing frequencies vary with the vegetation growth rates, but is required when the grass and/or weeds exceeds a height of twelve (12) inches.
- d. *Multiple Uses.* Multiple uses in a drainageway are allowed (e.g., bike paths or greenbelt). If multiple uses are to be incorporated into a drainage easement, the applicant shall form a property owners' association that shall assume maintenance responsibility for the private trails and other amenities. The appropriate government agency will only be responsible for maintenance of the public facilities. The owner, developer, or builder shall provide appropriate easements for both public and private use.
- (e) *Operation and Maintenance Responsibilities.* The following shall apply to all stormwater management facilities pursuant to the requirements of this chapter:
 1. *Private Facilities.*
 - a. Maintenance of privately owned facilities shall be the responsibility of the property owner or the community/homeowner's association. The maintenance schedule for that private facility must be specified in the stormwater management plan submitted to the City prior to construction. The maintenance schedule for privately owned facilities must be approved by the Director of Public Works or his designee prior to the approval of construction drawings. That schedule shall include as a minimum mowing of the surface area of any constructed stormwater detention facility or drainageway at least once per month from April 1 to October 31 each month, and at least twice during the balance of the year.
 - b. Authorized personnel from the City shall conduct inspections of these facilities and structures annually. Any deficiencies will be noted by the City and forwarded to the owner for necessary corrections or

repairs. Any major construction must be designed and constructed according to City standards. Improperly maintained areas identified by the City during inspections shall be the responsibility of the current owner to correct.

2. *Public Facilities.*

- a. Maintenance of publicly owned facilities shall be the responsibility of the City and will be accomplished in accordance with City policies and procedures.
- (f) *Conflicts.* No provision of this chapter is intended to, nor shall any part or portion hereof be construed, so as to conflict with the Texas Water Code.
- (g) *Enforcement.* The city shall enforce the requirements of this chapter through the approvals process for subdivision plats or commercial development permit applications.

(Ord. No. 569, § III, 9-21-04; Ord. No. 569-A-2007, §§ I, II, 8-8-07; Ord. No. 569-B-2009, §§ I, II, 8-18-09; Ord. No. 569-C-2013, § I, 9-3-13; Ord. No. 569-D-2014, § I, 2-4-14; Ord. No. 569-E-2015, § I, 10-20-15)